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BEFORE THE  
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

IN THE MATTER OF THE:

REGULAR MONTHLY BUSINESS )  
MEETING )  
)

PARTIAL TRANSCRIPT  
AGENDA ITEM NUMBER 11

DATE AND TIME: Thursday, September 17, 1998  
9:30 A.M.

PLACE: Board Hearing Room  
8800 Cal Center Drive  
Sacramento, California 95826

Reported By: Janene R. Biggs, CSR No. 11307

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A P P E A R A N C E S

Mr. Daniel G. Pennington, Chairman  
Mr. Robert C. Frazee, Vice Chairman  
Mr. Dan Eaton, Member  
Mr. Steven R. Jones, Member

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1                               SACRAMENTO, CALIFORNIA

2                               THURSDAY, SEPTEMBER 17, 1998, 9:30 A.M.

3                               ---oOo---

4                               CALL TO ORDER

5                               CHAIRMAN PENNINGTON: Okay. Good morning

6 and welcome to the September 17th meeting of the

7 California Integrated Waste Management Board, which is

8 really an extension of the September 10th meeting of

9 the California Integrated Waste Management Board.

10                              Would the secretary call the roll, please?

11                              THE SECRETARY: Board Member Eaton.

12                              MEMBER EATON: Here.

13                              THE SECRETARY: Frazee.

14                              MEMBER FRAZEE: Here.

15                              THE SECRETARY: Jones.

16                              MEMBER JONES: Here.

17                              THE SECRETARY: Chairman Pennington.

18                              CHAIRMAN PENNINGTON: Here.

19                              We have a quorum.

20                              As the public will note, Board

21 Member Chesboro is absent today, as he is currently on

22 leave of absence. Therefore, his name will not be

23 included in today's roll call votes.

24

25

26       ///



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1 EX PARTE COMMUNICATIONS

2 CHAIRMAN PENNINGTON: Do any members have  
3 ex partes?

4 I'll start with Mr. Frazee.

5 MEMBER FRAZEE: Yes, Mr. Chairman. I have  
6 three that are not previously recorded in the record.  
7 The first, a letter from Mr. Wayne Morgan of the North  
8 Coast Unified Air Management District, Humboldt County  
9 Transfer Station; a letter from Mr. John Woolley,  
10 supervisor, County of Humboldt on the same subject; and  
11 a letter from Ms. Virginia Johnson, executive director  
12 of ecology action on the nonprofit opportunity oil  
13 rigs.

14 CHAIRMAN PENNINGTON: Okay. Thank you.  
15 Mr. Jones?

16 MEMBER JONES: The same three that  
17 Mr. Frazee just read, as well as a brief conversation  
18 with Denise Delmatier and Larry Sweetser from Norcal.

19 CHAIRMAN PENNINGTON: Mr. Eaton?

20 MEMBER EATON: Nice to see you. I thought  
21 with we were in Santa Barbara, weren't we?

22 I, too, have the same disclosures from  
23 Mr. Morgan, Mr. Woolley, and Ms. Johnson, as well as a  
24 brief conversation minus Mr. Sweetser with  
25 Denise Palmatier, and I also have a letter regarding  
26 rigs and enert debris from Ms. Linda Valasco, of the

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1 Construction Association of California.

2 CHAIRMAN PENNINGTON: Thank you, and I also  
3 have the Woolley/Morgan letters, as well as the  
4 Virginia Johnson letter.

5 There are speaker request forms on the table  
6 in the back of the room. If anybody wishes to address  
7 the Board on any item, please fill out a form and hand  
8 it to Ms. Kelly.

9 I might say that the number of people who  
10 are speaking on the Humboldt County permit is growing,  
11 and by the time we get to that, if it's grown anymore,  
12 I will restrict comments to five minutes for each  
13 person. I know there are some groups there, and we'll  
14 extend that out for each person in the group so that  
15 you'll all get a chance, but we don't want to be here  
16 all day on this because we do have a heavy agenda. We  
17 certainly want to hear from everybody who wants to talk  
18 to us.

19 PROCEDURES AND ANNOUNCEMENTS

20 CHAIRMAN PENNINGTON: Announcements.  
21 Items 3, 4, and 5 are pulled from today's agenda.

22 Item Number 9 will be heard as originally  
23 noticed. The Board will hear the item on Humboldt  
24 County permit following the Board's reports and  
25 presentations. So that will be the first item up after  
26 we do some housekeeping.

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1                   For the record, on September 10th, 1998, the  
2   Board heard testimony on several issues before the  
3   Board today. All testimony that has been entered --  
4   all that testimony has been entered into the record for  
5   today's meeting. So if you testified on the 10th, and  
6   we did not have a quorum, I want you to understand that  
7   testimony will become a part of today's proceedings --  
8   in the record of today's proceedings.

9                   First order of business that we'd like to  
10   share with the public and my colleagues, a receipt of  
11   an award from from Keep California Beautiful Board of  
12   Directors and the state of California. This award  
13   acknowledges the Board's efforts to protect the beauty  
14   of California. It says, "Keep California beautiful,"  
15   and "The people of the State of California extend their  
16   appreciation to the California Integrated Waste  
17   Management Board for your commitment in protecting the  
18   beauty in the state of California, for your leadership,  
19   dedication and service in the fourth annual April Keep  
20   California Beautiful Month 1998, with sincere thanks  
21   from First Lady Wilson and Barry Edwards, the  
22   president."

23                   We'll make sure that Mr. Frith gets it put  
24   up out front. Okay.

25                   Now we'll move any reports from Board  
26   members who wish to make any reports.

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1                   REPORTS OF THE BOARD'S COMMITTEES

2                   CHAIRMAN PENNINGTON:   Mr. Eaton?

3                   MEMBER EATON:   Yes, Mr. Chair.   Thank you.

4   Just a couple of matters.

5                   I returned late last night from the National  
6   Recycling Conference in Albuquerque.   I just wanted to  
7   report that it's heartening to see the kind of efforts  
8   that are going around in our fellow states in terms of  
9   moving recycling, reuse, and recovery along.

10                  It was also disheartening to see that  
11   California, while many reports, as it did a recap of  
12   its history, was in the forefront of the movement in  
13   trying to keep this activity going, that subsequent to  
14   that, other states have surpassed us both in terms of  
15   proactive stance as well as creativity, and I think  
16   that due to this Board's commitment of just a couple of  
17   months ago of trying not to let that happen, I think  
18   surely it's both timely as well as effective.   They,  
19   too, also recognize the types of economics that are  
20   governing the waste industry and the changes therein  
21   are going to affect us as we move into the year 2000  
22   and beyond, so I think just from a standpoint of what  
23   we need to be doing, I think that it's not only timely,  
24   but absolutely critical that we once again take the  
25   lead in the nation as we did early on in terms of  
26   protecting the public safety and health while at the



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1 same time trying to sustain valuable resources. So I  
2 think that was the one thing we took away.

3           When you look at the agenda for national you  
4 only see one or two kind of items that may have had on  
5 or two California speakers. It's different than it was  
6 20 years ago, and I think that it's good that it  
7 happens that way. I just think we need to work a  
8 little harder, and I know that this Board wants to do  
9 that. So hopefully in the future we'll all have an  
10 opportunity to regain some of the prominence that we  
11 once held.

12           In addition, I have a couple of discussion  
13 items -- they're not really reports, but discussion  
14 items -- I'd like to bring up. One involves Senate  
15 Board 1299 as it relates to the streamlining process.

16           It has come to my attention subsequently to  
17 the time we acted upon this that a couple of  
18 jurisdictions are seeking to petition the board on full  
19 blown permits as well as transfer stations and other  
20 kinds of things, and it kind of concerns me that we  
21 haven't yet begun to set up a procedure for this kind  
22 of petition, but if you remember early on, we talked  
23 about this being limited to one particular tier and  
24 type of kind of registration, and now we're seeing  
25 ahead of time, even though we put the caveat in the  
26 agreement of petition and we haven't had time yet to

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1 develop any kind of procedures, and I'm concerned about  
2 the fact that, one, we may find ourselves in time line  
3 crunches if these types of activities take place. And,  
4 two, the real reality of the situation is irrespective  
5 of who wins the gubernatorial, there are going to be  
6 changes in personnell that take place down at our  
7 father agency -- or mother agency -- Cal APA as well as  
8 in the governor's office, and that just strikes me as a  
9 recipe for disaster, especially when we start working  
10 through some of things, and I would hope that what we  
11 might be able to do is rather than go forward, if we  
12 could set an agenda item in the future, perhaps in a  
13 month, at the end of next month, to kind of discuss  
14 what procedures and what kind of action that we would  
15 have for doing this. We haven't even begun to deal  
16 with the registration permit yet alone a full blown  
17 permit in the streamlining process. So I would like to  
18 kind of just slow down and hopefully restrict sending  
19 any kind of agreements out until we've had this kind of  
20 opportunity to kind of work through the system and have  
21 a discussion amongst ourselves, and I would ask our  
22 fellow board members to concur in that without a formal  
23 motion, but just as a way to kind of keep things  
24 moving.

25 CHAIRMAN PENNINGTON: As you know,  
26 Mr. Eaton, the ability to put items on the agenda is

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1 certainly an individual privilege that each Board  
2 member can exercise, and if that's your request, we'll  
3 certainly agendise the item for the October meeting. I  
4 just want to be cautious that we don't start a process  
5 of revisiting everything that we have dealt with  
6 before, and it seemed to me that when we did deal with  
7 this issue that part of our agreement was that we would  
8 take a look at other than registration category on a  
9 case-by-case basis, and it seems to me that that's what  
10 is possible, and we haven't been notified of anything  
11 formally at this point, and that's what we will be  
12 asked to do.

13 MEMBER EATON: I would agree with you that  
14 revisiting items is not always in the best interest of  
15 the Board or the public. However, in a situation where  
16 subsequent information has come to light, as well as  
17 the very fact that it was envisioned at that time that  
18 we would have at least a couple of registration permits  
19 under our belt before we start taking up the petitions,  
20 I think we ought to be in a position where in this  
21 instance we have a situation wherein we have additional  
22 subsequent information, we have a very, very, serious  
23 situation which involves perhaps permits that are on  
24 the horizon that it's worth at this point injunction to  
25 take the prudent step and just kind of go through and  
26 figure out how we want to work with this procedure for

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1 not only the registration permit, but any other kind of  
2 petition. We're doing this in other arenas as well,  
3 and I think that rather than trying to react as we have  
4 in other situations, this would be a way that everyone  
5 would understand the rules of the game prior to seeking  
6 any petition, because otherwise we make the rules up as  
7 we go along.

8 I think it's always better in a public  
9 debate to have the rules set so the debate can go  
10 forward.

11 CHAIRMAN PENNINGTON: Certainly. I would  
12 certainly agree with that. I have no problem with  
13 having the rules set. I don't like to make them up as  
14 we go along, unless you allow the Chair to make them up  
15 as we go along.

16 MEMBER EATON: I think we'll do that on a  
17 case-by-case basis as well.

18 CHAIRMAN PENNINGTON: As you requested, we  
19 will agendise an item for one of next month's Board  
20 meetings, and I ask that you work with Mr. Chandler and  
21 Ms. Nauman to put together the items we have and their  
22 understanding of what we're going to be looking at.

23 MEMBER EATON: And we'll look at the  
24 proposed agreements, and kind of give an update to the  
25 Board at that time.

26 CHAIRMAN PENNINGTON: Okay. Fine. Thank



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1     you.

2                   MEMBER EATON:   Thank you.

3                   CHAIRMAN PENNINGTON:   Mr. Jones, do you have  
4     anything?

5                   MEMBER JONES:   Thank you, Mr. chairman.

6                   Just to report on a meeting that took place  
7     on September 2nd involving the Rubber Pavement  
8     Association, CalTrans and our Board.   It took place in  
9     Sacramento.   It was relating to -- what we were there  
10    to do was to discuss ground rules, problems, benefits  
11    related to each group's interests on rubberized asphalt  
12    pavements on California highways.   The Board,  
13    Mr. Chairman, had asked me to take the lead on this,  
14    and Keith Smith, Byron Fitzgerald, Martha Gildart and  
15    myself attended representing the Board.   CalTrans had  
16    the Director of Highway Maintenance for the State of  
17    California.   He's got about a \$750 million budget.  
18    Mr. Chandler was at the meeting for parts of the day.  
19    They had the directors of new construction throughout  
20    the roads of California, so -- as well as people from  
21    the lab.

22                   A little history was, RPA, Rubber Pavement  
23    Association, who does a considerable amount of work in  
24    the state of Arizona -- most of the roads in Arizona  
25    are rubber asphalt roads, and they had worked out a  
26    partnership with the Department of Transportation from

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1 Arizona to try to work to come up with the proper  
2 mixes, the proper operating procedures to ensure  
3 successful rubberized asphalt projects in the state of  
4 Arizona.

5 Martha Gildart joined the group from  
6 CalTrans that toured roads in Arizona to look at a  
7 couple -- I guess one failure, as well as quite a few  
8 successful projects to try to get a comfort level.

9 RPA had actually come to the Waste Board to  
10 ask if we would help participate in the meeting between  
11 their association and CalTrans. CalTrans was talking  
12 about the possibility of a cookbook or a menu or  
13 something that laid out proper operating procedures and  
14 would the Board be interested in potentially helping to  
15 fund something like that, and my first reaction to that  
16 question was, if we pay for a book is it going to sit  
17 on somebody's shelf, or is it going to actually be used  
18 to get rubber in the roads, and I didn't want to -- you  
19 know, obviously I wanted to have more discussion, and I  
20 was pleased at the meeting. The meeting was about a  
21 13-and-a-half-hour meeting that, because of people's  
22 schedules, we had to get it all done in one day, and I  
23 think we left at about 9:30 that night, whatever, 8:30.  
24 But a very interesting point coming out is that  
25 CalTrans feels a risk in using rubberized asphalt if it  
26 is not applied correctly. If we all put ourselves in

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1   that position of driving down the highway one year and  
2   seeing CalTrans has done a road job and then a year and  
3   a half later they're back there tearing it up using  
4   dollars that can be used to do another road, obviously  
5   we have a problem, and they come under a lot of  
6   scrutiny.

7                   So I think part of the day -- and I think  
8   the Waste Board needs to be aware of that, and I  
9   think RPA needed to be aware of that and I think part  
10  of the process of that day we were able to identify  
11  that as a barrier, but we were also able to offer an  
12  opportunity to the Rubber Pavement Association is that  
13  because this is so critical to the growth of their  
14  business, they need to make a commitment to be there at  
15  the preconstruction meetings, at the -- when the  
16  materials are being mixed, when they're being put down,  
17  to make sure to insure that those rubberized asphalt  
18  projects are done correctly, because they're usually --  
19  a prime contractor subs that type of work out, so there  
20  is an educational process that could be a fit for this  
21  Board. This is just preliminary discussions as to  
22  what -- you know, what our role would be or what could  
23  our role be, and that seemed like one, an educational  
24  process to ensure good rubberized asphalt project, and,  
25  you know, if someday we come up with a cookbook that  
26  may be another one, if they promise to use it.

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1                   You know, it's something that could come  
2 forward as a future project. I was very pleased with  
3 our staff at the Waste Board that were part of that  
4 project. I think we brought a lot of things to the  
5 table. You all of a charter in front of you that I  
6 passed out today. It was on my desk this morning.  
7 This charter line by line got negotiated. It was very  
8 clear, and it talks about working together and quality  
9 products, but at the end, the last piece of this, and  
10 Martha insisted, and after she left, I told them, "I'm  
11 a heck of a lot bigger than she is, and it ain't coming  
12 out," so it stayed pretty much verbatim, and it says,  
13 "One of our objectives is to deal with environmental  
14 sensitivity to understand and be sensitive to the need  
15 to recycle materials and realize the ultimate benefits  
16 to society by proper design, application of quality  
17 rubber asphalt pavements.

18                   So our message has been heard. CalTrans  
19 understands that there is a mutually beneficial  
20 marriage there if we can make sure that we have good  
21 projects, and that's what we're going to have to work  
22 towards.

23                   Thank you, Mr. Chairman.

24                   CHAIRMAN PENNINGTON: Good. Thank you,  
25 Mr. Jones.

26                   Mr. Frazee?



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1                   MEMBER FRAZEE:  Nothing from me, unless you  
2   care to hear to saga of being trapped in Canada.

3                   CHAIRMAN PENNINGTON:  Thank you.

4                   AGENDA ITEM NUMBER 2

5                   CHAIRMAN PENNINGTON:  We'll move on to  
6   Item Number 2, report from the executive director.

7                   Mr. Chandler?

8                   MR. CHANDLER:  Good morning, Mr. Chairman,  
9   members.

10                  In reviewing my report this morning,  
11   Mr. Chairman, I think in the interest of time -- I know  
12   we're going to be meeting in just a short five days --  
13   most of the items are informational.  I will be  
14   providing a more recent update on the Roister  
15   situation, so I think what I'm going to do is just pass  
16   on this.  Mr. Jones covered one of items very  
17   completely in regard to the Rubber Pavement  
18   Association.  So you can expect next week in  
19   Santa Barbara that I'll be providing a little bit more  
20   update on the Roister situation and a little bit more  
21   update on pertinent matters, but I think in the  
22   interest of time I'm going to pass on this report and,  
23   we'll just move to regular business.

24                  Thank you.

25                  CHAIRMAN PENNINGTON:  Thank you,  
26   Mr. Chandler.

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1                   Any questions of Mr. Chandler, by the way,  
2   that the Board has?

3                   Okay.

4                   AGENDA ITEM NUMBER 11

5                   CHAIRMAN PENNINGTON: We'll move to  
6   continuing business, Item Number 11, Consideration of a  
7   New Solid Waste Facility Permit for the Humboldt County  
8   Waste Management Authority temporary transfer station  
9   in Humboldt County.

10                  Again I want to point out that, we did  
11   receive some testimony on this item on September 10th.  
12   That testimony will be made a part of the record of  
13   today's proceeding.

14                  Julie Nauman.

15                  MS. NAUMAN: Mr. Chairman and members,  
16   Georgianne Turner will make the presentation.

17                  MS. TURNER: As I'm sure you recall and  
18   mentioned, this item was heard before the August 26th  
19   board meeting and the Board received testimony from  
20   citizens regarding this issue on September 10th. We  
21   are hearing this item today as a carryover item from  
22   the scheduled September 10th Board meeting, and, for  
23   the record, it should be noted the Board 60-day time  
24   frame to act on the permit would have normally ended on  
25   September 11th. However, the applicant has agreed to  
26   extend the Board's time frame to September 25th, 1998,

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1 and they did so in a letter dated September 11th, 1998.

2 To refresh everyone's memory on the project  
3 description briefly, I'd like to go over the  
4 description of the project.

5 This is for a new solid waste facility  
6 transfer station in Arcata, California. They would be  
7 accepting 550 tons per day on a 2.5 acre parcel.  
8 Operational hours would be 7:00 a.m. to 5:00 p.m.  
9 Monday through Friday, and 8:00 a.m. to 4:00 p.m. on  
10 Saturday. Handling and processing of waste would be  
11 allowed to occur one half hour before opening hours and  
12 one half hour after closing hours.

13 This facility will only handle commercial  
14 haulers, and the waste will be transferred to Dry Creek  
15 Landfill in Medford, Oregon.

16 I thought at this time it may be helpful to  
17 just look at the site map just so everyone's familiar  
18 with that and show a few pictures of the site. I  
19 thought it would be helpful just to point out the  
20 access point and the route the trucks would come into  
21 the site. This (indicating) is the access that the  
22 trucks would be coming in on here, and they would be  
23 following Don's pen around here (indicating) to the  
24 transfer station. That area (indicating) in the gray  
25 is the permitted boundary, and just a note that there  
26 is a saw milling operation to the west of the facility,

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1 and it's a little bit off your map now, but to the east  
2 of the facility is a wood chipping operation. The  
3 offices would be created just north of there.

4 This is just some background for you. I  
5 thought to show about four pictures of the existing  
6 site as it looks now. This (indicating) is the road --  
7 the access road that the trucks would be using, which  
8 would be Route 255. This (indicating) is the pull-off  
9 area that we showed on the site map where the trucks  
10 would be pulling off off the main road to enter the  
11 facility, and that (indicating) sign would be improved  
12 with a new sign of the transfer station acceptable  
13 waste and so forth.

14 This (indicating) is a picture of the  
15 current parcel where the building will go on. They've  
16 been preparing for the location of the building. This  
17 is another picture of the site as it looks today.

18 Thanks, Don.

19 At the August 26th Board meeting, staff  
20 recommended and the Board voted for zero for the  
21 applicant to carry this item over to the September 10th  
22 board meeting do to the outstanding CEQA issues. Since  
23 that meeting and through the September 10th hearing,  
24 staff have been working with the City of Arcata, who is  
25 the lead agency for the project, and the applicant and  
26 the LEA to develop an adequate additional CEQA



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1 documentation for Board concurrence.

2 As per the staff recommendation and the  
3 Board direction, the applicant has addressed five items  
4 asked for in the August 26th action. I would just like  
5 to go over those briefly.

6 They have addressed the exact location of  
7 the project. They've addressed the numbers and types  
8 of existing trucks travelling from Medford, Oregon to  
9 Arcata, California. The project description now  
10 excludes the rail movement from the project  
11 description. It addresses self-hall operations, and it  
12 also addresses the fact the CEQA analysis does not  
13 cover any activity other than that on this location,  
14 and that the Authority intends to prepare an EIR for  
15 the project as described in the Notice of Preparation  
16 for the permitted facility, and that the Authority will  
17 not use the negative declaration and addendum as part  
18 of the CEQA documentation for the permanent facility.

19 Pursuant to CEQA guidelines 15164, the lead  
20 agency has prepared the addendum that I just spoke of  
21 addressing those issues, an addendum data  
22 September 14th and has satisfactorily addressed those  
23 issues asked for in the August 26th Board meeting.

24 As a responsible agency, it's appropriate  
25 for the Board to adopt the addendum for the following  
26 reasons:

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1           One is to clarify the project description in  
2     the negative declaration, which could have been  
3     interpreted differently than the lead agency's intent.

4           Secondly, to include additional evidence in  
5     the record including that given during the public  
6     hearing and to show that the conditions specified in  
7     the CEQA guidelines, Section 15162, which would  
8     necessitate preparation at a subsequent IER having  
9     occurred. Those conditions have not occurred.

10           And lastly, to show that although the Notice  
11    of Preparation was prepared for the permitted facility,  
12    which could have the perception for a segmented  
13    project, this temporary project and the CEQA analysis  
14    does not replace the full analysis that would need to  
15    be prepared for the permanent project.

16           Due to the fact that the Board needs to act  
17    on the addendum for the reasons I just gave, there are  
18    two resolutions that have been prepared for your action  
19    today. The first would be the action on the approval  
20    of the addendum, and the second would be the action on  
21    the proposed permit.

22           Based on the information that we have now,  
23    the Board staff recommend the adoption of Resolution  
24    98316, adopting the September 14th addendum to the  
25    mitigated negative declaration and the adoption of the  
26    Resolution 98317 in the concurrence of the issuance of

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1 the solid waste facility's permit, 12-AA0108.

2 At this time, this concludes my  
3 presentation. The LEA was unable to be here due to fog  
4 in Arcata, California. I'm sure at this time there are  
5 several people that may want to speak on this item.

6 MS. TOBIAS: Mr. Chairman?

7 CHAIRMAN PENNINGTON: Sure.

8 MS. TOBIAS: May I add that we received a  
9 fax from the Northcoast Unified Air Quality District,  
10 which is an addendum to the letter that you received  
11 this morning. So Marlene has that and can pass that  
12 out. Maybe she already has. It's front and back. I  
13 see Dan has it.

14 Could you pass it down? And then there's  
15 enough that there's some that can go on the back  
16 counter.

17 I just wanted to add that came in by fax  
18 this morning.

19 CHAIRMAN PENNINGTON: Okay. This is an  
20 addendum to the letter you received yesterday?

21 MS. TOBIAS: Yes, that we received late last  
22 night.

23 CHAIRMAN PENNINGTON: Okay. Any questions  
24 of staff at this time? Maybe we'll take a minute and  
25 let us read this letter. Okay.

26 We will now move to public comment for those

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1 of you who were interested. We did put some of these  
2 (indicating) back there, I hope.

3 We'll start. One thing I want to say is we  
4 have quite a few, about almost 20 people that want to  
5 address us this morning, so I will ask that you kind of  
6 keep your comments to about five minutes. I don't have  
7 a stopwatch, so I'm not going to, you know, hammer you  
8 down at four minutes 59 seconds. So if you'd cooperate  
9 and try to keep it short, we'd appreciate it.

10 We're going to start with Victor Schaub.

11 Let me just also add that if you have a  
12 notice that -- Norcal wants to do it in a certain  
13 order -- if you have a group that you want to do it in  
14 a certain order, let me know.

15 MR. SCHAUB: Thank you, Mr. Chairman.

16 I'm the general counsel for the Waste  
17 Authority, the applicant, and I'll defer to Stan Dixon  
18 who's going to speak on our behalf. I just put in a  
19 Speaker card in the event that I wanted to do some  
20 rebuttal at some point.

21 CHAIRMAN PENNINGTON: Fine. You let us know  
22 if you want to.

23 Mr. Stan Dixon.

24 MR. DIXON: Thank you, Mr. Chairman.

25 Mr. Chairman, members of the Board, I am  
26 Stan Dixon, a member the Humboldt County Board of



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1 Supervisors, and the county's representative to the  
2 Humboldt County Solid Waste Management Authority, and I  
3 want to take this opportunity to thank the Board. As  
4 you know we were here last week and had the opportunity  
5 to meet with your staff and some of the members, and we  
6 found those meetings to be very productive. We learned  
7 a great deal. We went away understanding that this is  
8 a complex process, and we have attempted to provide  
9 during this interim week the kinds of information to  
10 answer questions, and we hope resolve any remaining  
11 issues that might have been outstanding.

12 We are here today because we wanted the  
13 blessing of your Board, as opposed to having taken a  
14 permit by default because your Board wasn't able to  
15 meet last week. We think that the citizens of Humboldt  
16 County deserve to have your Board consider our  
17 application on its merits, and that's why we're here.

18 We hope and believe that all the issues that  
19 have been raised, both by your staff and by your Board,  
20 that all the directions that were given to us by your  
21 Board at the August 25th meeting and through the  
22 discussions we had last week have been complied with.  
23 We believe that the underlining CEQA documents that you  
24 have before you, including the addendum have been  
25 satisfactorily completed, are in compliance with CEQA  
26 laws, and we hope that we have honored the commitment

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1 made by you and your staff to do those things that were  
2 requested of the Authority.

3 I don't intend to be anything but brief here  
4 this morning, Mr. Chairman. We do have representatives  
5 from Humboldt County, including Mr. Schaub, our general  
6 counsel, Anne E. Mudge, CEQA attorney who has been also  
7 advising us, Mayor Carlos Benemann from the city of  
8 Ferndale, who is also representative on the Waste  
9 Authority, and Gerald Kindsfather, our general manager.

10 We would be happy to answer any questions  
11 that may arise, and again, I hope that your Board will  
12 find that the recommendations of your staff regarding  
13 the resolution to adopt the addendum and to grant us  
14 our permit would be followed. We're here to answer any  
15 questions you might have.

16 Thank you.

17 CHAIRMAN PENNINGTON: Any questions of  
18 Supervisor Dixon?

19 Okay. Thank you.

20 Now, would you like to --  
21 Gerald Kindsfather, you wish to speak to? I'm just  
22 asking. You're welcome to. I'm just trying to keep it  
23 straight here.

24 MR. KINDSFATHER: Thank you Chairman and  
25 Board members. The staff and the Board of the Humboldt  
26 County -- my name is Gerald Kindsfather, general

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1 manager of the Humboldt County Waste Management  
2 Authority.

3 Both the staff and board of the Authority  
4 recognize the need for doing a public hearing in regard  
5 to the potential loss of self-haul. In our discussions  
6 about this, we came to realize that we should do it  
7 regardless of what City Garbage decides for two  
8 reasons. One is it will help us to focus our efforts.  
9 We have the whole series of potential mitigations. It  
10 will be to our benefit to hear what the public has to  
11 say so we know what they want, and that will help us to  
12 focus our efforts to give them what they want.

13 The other is, sometimes the public has  
14 suggestions that we haven't thought of, so we are quite  
15 anxious to hold this public hearing. We would like to  
16 put the notice for the public hearing in next Monday's  
17 paper and do it as soon as possible after that.

18 We do also recognize that the CEQA process  
19 for this particular site is not transferable to the  
20 permanent site. We plan on going to work right away on  
21 the CEQA process for that permanent site. In fact, we  
22 have some components already in place.

23 There are some Arcata residents here today  
24 and they're primarily -- as I understand their concern  
25 is that we will be in Arcata longer than we have  
26 promised. I assure you and them that we want to move

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1 on to the permanent site as soon as possible for a  
2 number of reasons. One is, the design of that facility  
3 will be more efficient than we have at this interim  
4 facility. There will be an aggressive recycling  
5 program at that facility which we do not have here.  
6 It's closer to the centroid of waste, the greatest  
7 generation of waste.

8           Also there are plans for household hazardous  
9 waste collection and self-haul at that facility. So  
10 we're quite anxious -- I assure the residents of Arcata  
11 that are concerned about this that we plan on -- this  
12 is an interim facility and we do plan on moving to the  
13 permanent facility as soon as possible and going  
14 through that CEQA process with you, complete and  
15 separate from this one, and I'll be here to answer any  
16 questions if you have any.

17           CHAIRMAN PENNINGTON: Do you have any  
18 questions?

19           Okay. Thank you, sir.

20           Carlos Benemann.

21           MR. BENEMANN: Thank you, Mr. Chairman and  
22 members of the Board. My name is Carlos Benemann. I'm  
23 the mayor of Ferndale, one of the six cities in  
24 Humboldt County that propose to use the temporary  
25 transfer station for which we seek this permit.

26           I represent people. I don't represent any  
29



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1 companies or corporations. I have no ax to grind other  
2 than the public interest.

3 I want to urge the Board to approve this  
4 permit, because we have been working for the solution  
5 to our solid waste problem in Humboldt County for many  
6 years now. All 35 county and city officials -- elected  
7 city officials in Humboldt County have unanimously  
8 joined in agreeing on this course of action and  
9 proposed that we form a joint powers authority of which  
10 I'm also a member and which I represent here along with  
11 Stan Dixon.

12 I want to emphasize again that I don't  
13 believe that there's any significant environmental  
14 issue now before you. We are complying with all legal  
15 and technical issues that have been raised by your  
16 staff. We have answered all the questions that have  
17 been asked by the staff regarding this permit.

18 In conclusion, I just hope that you will  
19 approve this permit.

20 Thank you very much.

21 CHAIRMAN PENNINGTON: Thank you.

22 Any questions of the mayor?

23 Okay. Next we have Anne E. Mudge.

24 MS. MUDGE: Good morning, Mr. Chairman.  
25 Anne Mudge, Outside CEQA Counsel for the Authority.

26 I've been asked to review the validity of

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1 the CEQA process in the preparation of the mitigated  
2 negative declaration and the addendum, and I find it to  
3 be an adequate and compliant means to comply with CEQA  
4 for this project.

5           You have heard, and you will likely yet  
6 hear, suggestions that there are environmental impacts  
7 that have not been mitigated. I've reviewed the  
8 documents. I don't believe that there is any credible  
9 evidence that this project will have a significant  
10 environmental impact that cannot be mitigated.

11           Thank you.

12           CHAIRMAN PENNINGTON: Thank you.

13           Any questions of Ms. Nudge?

14           Okay. Mr. Schaub, did you want to say  
15 anything at this time?

16           Now, we'll move to Denise Delmatier, and I  
17 understand you have a list of who goes when.

18           MS. DELMATIER: Good morning, Mr. Chairman  
19 and members of the Board. My name is Denise Delmatier  
20 on behalf of Norcal Waste Systems, and we're here to  
21 oppose the permit application. We're here to oppose  
22 adoption of the addendum.

23           It should not come as a surprise that we do  
24 not agree with staff's recommendation, and while we  
25 certainly respect the individuality and the wherewithal  
26 by which staff has come to their conclusion, we simply

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1 respectfully agree to disagree. We do not view  
2 these -- this proposed addendum to contain minor  
3 technical clarifications. We view and we will  
4 establish substantial evidence for the record today  
5 that, in fact, we have credible evidence that will  
6 establish that the creation of a new, significant  
7 impact has occurred with this addendum and, in fact, a  
8 change of the project description.

9           We urge the Board to deny adoption of the  
10 addendum and object to the permit before today and to  
11 do so, in fact, today. Enough is enough. Send the  
12 right message to the applicant. This permit  
13 application is not in proper form, has not followed  
14 proper procedure, and should be sent back and come back  
15 with a complete document, a complete document that  
16 provides the adequate CEQA documentation and addresses,  
17 in fact, the concerns that we will demonstrate this  
18 morning, that the residents of the city of Arcata --  
19 and I might note there is no representative from the  
20 city of Arcata here today. We heard from Ferndale; we  
21 heard from Humboldt County, but the lead agency the  
22 city of Arcata is not here this morning. The residents  
23 are here as well as my client, Norcal Waste Systems.

24           We don't believe that the process has been  
25 complied with. We believe that we have repeatedly  
26 advised the applicant you have deficiencies in your

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1 CEQA documentation. You have a project proposed that  
2 will, in fact, negatively impact the air quality in a  
3 nonattainment region. Not only that, but the truck  
4 haul project proposed takes the waste from a  
5 nonattainment region and transfers that waste to  
6 another nonattainment region.

7           The residents of the city of Arcata have a  
8 right to have their voice heard. This meeting this  
9 morning will eventually sound like a city council  
10 hearing, as well it should. That is the proper venue  
11 for addressing the significant impact of environmental  
12 degradation under CEQA. This is not, again, minor  
13 technical clarifications.

14           The applicant had plenty of opportunity and,  
15 in fact, the lead agency, the city of Arcata, had a  
16 council meeting last night. There was no notice to  
17 adopt the addendum. They had that opportunity if they  
18 had wanted to, but they chose not to. Again, there's  
19 been plenty of opportunity to provide that  
20 documentation and to provide that record. Instead,  
21 what we have here this morning is, the city of Arcata  
22 has asked you, the Board, to do the little dirty work  
23 for them, to adopt an addendum that is not consistent  
24 with the CEQA process or procedure.

25           By their own admission there are other  
26 alternative disposal options available, and those have



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1    been in the public arena -- discussed in the public  
2    arena.  The drop-dead date that has been discussed in  
3    the background, the October 1 date, the applicant won't  
4    even have their facility up and running on October 1,  
5    so this threat of emergency doesn't exist.  They won't  
6    have their facility in operation on October 1.

7                   It would be extremely unfortunate, I  
8    believe, for the Board to depart from its long-standing  
9    history of providing equity and parity for all  
10   applicants, whether they be public or private, or  
11   whether it be small or large.

12                   We never attempt to bring this kind of a  
13   permit before you and force the Board to do something  
14   it should not, and that is, ignore the facts that, in  
15   fact, we do have a significant impact that does not  
16   meet state minimum standards and, therefore, should not  
17   receive your blessing this morning.

18                   Following me will be Norcal CEQA Attorney  
19   Marcus La Duca, and he will provide you with testimony  
20   that provides for the inadequacy, both substantively as  
21   well as procedurally, on the CEQA process.

22                   In addition, Pat Sullivan, Norcal's air  
23   quality expert will, in fact, provide the substantive  
24   testimony for the record that establishes that this new  
25   information that was submitted in detail last week,  
26   formally, to the Board will, in fact, create a new

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1 significant impact on air quality.

2 Don Gambelin from Norcal will then provide  
3 you with deficiencies in state minimum standards, and  
4 Larry Sweetser will be providing you with information  
5 outlining the deficiencies and compliance with AB 939  
6 planning documents. I will then provide you with a few  
7 brief closing remarks.

8 On the minimum standard issue, it should  
9 come as no surprise when you have a facility that's  
10 identified as accepting fish waste, dead animals,  
11 sewage sludge, asbestos containing waste, that you do  
12 have minimum standard issues, and, in fact, you can  
13 have vector problems, noise problems, air problems,  
14 odor problems.

15 Quite frankly I just found a little resident  
16 rodent of the Board that crossed my path as I entered  
17 the building. It happens, but this is not a facility  
18 that accepts fish waste, dead animals, sewage sludge,  
19 and asbestos containing waste.

20 Now, I do want to mention, though, I don't  
21 want that little resident rodent identified and done  
22 away with --

23 CHAIRMAN PENNINGTON: He can't vote either.

24 MS. DELMATIER: Yes. But it is important to  
25 note that these things do exist. They exist here, and  
26 they're certainly going to exist at this facility. We

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1     urge your no vote. We ask you to look at the facts for  
2     what they are, but not put blinders on and play the  
3     shell game that is going on with this application.

4             Thank you.

5             MR. LA DUCA: Mr. Chairman and members of  
6     the Board, Marcus La Duca, Sandberg & La Duca on behalf  
7     of Norcal Waste Systems and City Garbage Company.

8             We reviewed the proposed addendum for your  
9     Board, dated September 14th. Based on the evidence  
10    before you, the evidence we've submitted in the past,  
11    our position on that addendum, as on the previous  
12    environmental document, and that our position as stated  
13    in our letter to you last week of the 9th stands,  
14    again, that we urge you to reject the addendum and deny  
15    the permit.

16            Your staff has noted in their presentation,  
17    addendum can only be adopted if minor technical changes  
18    or additions are necessary under the State CEQA  
19    guidelines. The addendum cannot be adopted if changes  
20    to the proposed project create a new significant  
21    impact. Here the change from rail haul to truck haul  
22    alone has created a new significant impact, which we've  
23    had SCS Engineers prepare an air quality study, a  
24    quantitative study, an analysis that concludes that the  
25    particulate matters threshold, CEQA threshold, in the  
26    North Coast Unified Air Quality Management District as

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1 relayed by that district to SCS Engineers, has been  
2 exceeded by a factor of three to six times caused by  
3 two factors.

4           The first is the increased mileage of  
5 collection trucks from the current transfer station in  
6 Eureka driving to Arcata, the proposed transfer station  
7 site. A total of 906 miles every day, which as the  
8 fax -- I guess it was just received this morning --  
9 confirms that that number is a correct number to use.

10           The second item is the difference in  
11 emissions between loaded and unloaded trucks making the  
12 back haul trip to Medford, Oregon.

13           With that, I'd like to introduce  
14 Pat Sullivan from SCS Engineers and then conclude with  
15 a few comments on the CEQA process.

16           MR. SULLIVAN: Members of the Board, and  
17 ladies and gentlemen, I'm Pat Sullivan from SCS  
18 Engineers. SCS is an environmental and engineering  
19 consulting firm that specializes in landfills and solid  
20 waste facilities. My particular specialty within SCS  
21 is air quality, and within that includes estimating air  
22 quality impacts for the CEQA process.

23           I was approached by City Garbage of Eureka  
24 to calculate emissions for several proposed scenarios  
25 resulting from the temporary transfer station. At the  
26 time I was asked to do this analysis, I actually was



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1 not aware of which side of the debate I would be on,  
2 nor that there actually was a debate on this issue. My  
3 sole purpose was to decide was there any potential --  
4 and that's an important word -- is there any potential  
5 for this project to exceed the CEQA significance levels  
6 for air quality.

7           In that vein of looking at the potential for  
8 that exceedence, I enlisted a methodology that I'll term  
9 a "screening bear impact analysis," and what I mean by  
10 "screening" is that screening is a conservative  
11 estimate. Screening is meant in order of magnitude  
12 check on whether this project has the potential to be  
13 significant. The screening estimates may not be the  
14 final and best emission estimates for the project, but  
15 they give you an idea of whether the significance  
16 levels could be exceeded, and if, indeed, they are  
17 exceeded, then a further detailed analysis would have  
18 to be done to show that either, one, the significance  
19 levels are not exceeded, or, two, that they can be  
20 mitigated.

21           In terms of the methodology I use, I  
22 actually estimate emissions for two separate scenarios.  
23 Those scenarios include additional vehicle miles to the  
24 new transfer station, which Marcus spoke of as 906  
25 additional miles per day that would be travelled to the  
26 new transfer station, and the second scenario was, the

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1 transfer of refuse via loaded transfer vehicles to a  
2 landfill in Medford, Oregon versus those same transfer  
3 vehicles travelling to Medford, Oregon unloaded.

4 In doing that analysis, I looked at a couple  
5 different methodologies for estimating emissions, and  
6 these are techniques that I use commonly and are used  
7 commonly to do these screening levels analyses. The  
8 first one used the U.S. EPA's methodology for  
9 estimating emissions from paved roadways -- vehicle  
10 travel on paved roadways. And the second methodology  
11 is outlined in the South Coast Air Quality Management  
12 District's CEQA guidelines for estimating emissions  
13 from vehicles on paved roadways.

14 I also estimated emissions -- exhaust  
15 emissions of the vehicles for the scenario that  
16 included the additional 906 miles per day within the  
17 distance to the new transfer station. I did not,  
18 however, estimate the emissions -- increase in  
19 emissions that would be caused by having those transfer  
20 vehicles travel loaded approximately each 206 miles one  
21 way to the landfill in Medford, Oregon. That's a more  
22 detailed analysis that I did not choose to undertake.  
23 Because of the actual road that's traveled in that  
24 regard and the dips and valleys in terms of elevation  
25 climbs and drops, that's a very difficult analysis to  
26 do, looking at the exhaust emissions from those

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1 vehicles travelling loaded versus unloaded.

2           In terms of the results of my analysis, the  
3 results of my analysis basically concluded that the  
4 emissions from the scenario which includes the in town  
5 travel miles to the new transfer station could be as  
6 high as 45 tons per year of particulate matter less  
7 than 10 microns, or PM10. That same analysis concluded  
8 that particulate matter emissions from the additional  
9 loaded vehicles travelling to Medford, Oregon could be  
10 as high as 92 tons per year. Both of those values  
11 individually as well as cumulatively exceed the North  
12 Coast Unified AQMD significance level as instructed by  
13 a member of their staff to use, which is 15 tons per  
14 year of particulate matter less than 10 microns.

15           What this means in terms of a conclusion and  
16 what should have happened in this process, is, number  
17 one, a more detailed CEQA analysis should have been  
18 done to evaluate the air quality impacts. To date  
19 there has not been, other than our own, a quantitative  
20 analysis of this matter. A quantitative analysis  
21 should have been done, and I believe the most  
22 appropriate place to do that quantitative analysis and  
23 present that data would be within an environmental  
24 impact report, and that vein all the stakeholders as  
25 well as the North Coast AQMD could comment on that and  
26 comment on the methodology and how it was used to

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1 estimate emissions.

2               This morning we are in receipt, as you are,  
3 of the letter from the North Coast AQMD, as well as an  
4 addendum to that letter, and in terms of a final  
5 conclusion, I'm going to try to rebut those comments  
6 that were made by the North Coast AQMD.

7               Of their comments, the most important ones,  
8 the ones that affect the air quality impact analysis,  
9 include the selection of emission factors. The North  
10 Coast AQMD believes that the selection of emission  
11 factors used for our analysis are too high, especially  
12 considering the climate conditions in the north coast.  
13 However, I point out that, first, the North Coast AQMD  
14 understates the emission factors that are typically  
15 used in California for these types of analyses. In  
16 fact, they state that in desert regions, the highest  
17 value that they could see used was about 45 grams per  
18 mile. The South Coast AQMD, which, of course, covers a  
19 large amount of the desert regions in California,  
20 actually uses an emission factor of over 900 grams per  
21 mile for desert regions, paved roads that do not  
22 undergo some form of dust control or not cleaned or  
23 otherwise naturally wet.

24               Second the South Coast AQMD utilizes a value  
25 of approximate 181 grams per mile for roads -- paved  
26 roads that are actually subjected to dust control



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1 measures via cleaning and road sweeping.

2               So in that vein I believe that the North  
3 Coast AQMD has actually underestimated the emission  
4 factors that would typically be used for these  
5 analyses.

6               Second, the North Coast AQMD, in their  
7 letter, comments on a conversation I had with  
8 Mr. Bob Torsinsky of the District, in which  
9 Mr. Torsinsky instructed me not to use the South Coast  
10 AQMD emission factors. In fact, the emission factor  
11 that I had discussed with Mr. Torsinsky was the value  
12 of 900 grams per mile, which was for paved roads that  
13 were not subjected to street cleaning. Following his  
14 advice, I choose to use a value of 181 grams per mile  
15 reducing those emissions by approximately 80 percent.

16              For an emission factor, the South Coast AQMD  
17 identifies as emission factor for paved roads for which  
18 there is either natural wetting or for which there is  
19 actual street cleaning and dust control.

20              So I felt that that was the appropriate  
21 emission factor to use, especially for a screening  
22 level valuation.

23              Also, North Coast AQMD points out that they  
24 do not believe that loaded vehicles would have anymore  
25 dust emissions than unloaded vehicles. I believe that  
26 to be incorrect. In fact, U.S. EPA, in their own

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1 methodology, states that weight of the vehicle directly  
2 impacts fugitive dust emissions from roads. And in  
3 their equation for estimating those emissions, the dust  
4 emissions are clearly affected in a direct relationship  
5 by the weight of the vehicle. So when those vehicles  
6 which would have been returning to Medford, Oregon  
7 unloaded are loaded with up to 25 tons of refuse, as  
8 the applicant has stated, that would indeed increase  
9 emissions, which I believe the North Coast AQMD  
10 overlooks.

11               Also, the North Coast AQMD points out that  
12 they do not have an official CEQA significance level  
13 for particulate matter or for any pollutant. That is  
14 true. However, I was instructed to use 15 tons per  
15 year because that is the major source -- stationary  
16 source threshold that the North Coast AQMD has in their  
17 regulations, and that would be appropriate to use for  
18 this analysis.

19               Judging from their nonattainment status for  
20 particulate matter, I would see it be very peculiar  
21 that they would be willing to change that on a  
22 project-specific basis, especially when they're having  
23 trouble themselves meeting the particulate matter  
24 standard set by the State of California.

25               Finally, and to conclude, in terms of how  
26 this process should have been undertaken, it is my

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1 opinion that this air quality impact analysis -- this  
2 detailed air quality impact analysis should have been  
3 done as part of an environmental impact report process.  
4 Then all of the issues that we're here today to discuss  
5 would be taken care and it wouldn't be before you  
6 presenting testimony that should have been reserved for  
7 another forum. Had they done that, had they done a  
8 quantitative evaluation of air impacts and been able to  
9 prove to the satisfaction of the stakeholders and the  
10 North Coast AQMD that there were not impacts, again, we  
11 would not be here discussing this particular topic.

12 So finally to conclude, again, and to  
13 summarize that it's my opinion and the opinion of City  
14 Garbage of Eureka, that there is a potential for the  
15 emissions from this project to exceed significance  
16 levels and that something should have been done to  
17 address that as part of the CEQA process.

18 Thank you.

19 MEMBER EATON: Mr. Chair?

20 CHAIRMAN PENNINGTON: Yes, Mr. Eaton.

21 MEMBER EATON: I'd like a point of  
22 clarification, either from the proponents and or the  
23 opponents, and it doesn't matter who answers, whether  
24 the Authority or the opponents.

25 The 906 miles, is that the cumulative number  
26 of miles for all the trucks or individual trucks? I

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1 just need a point of clarification.

2 MR. GAMBELIN: The 906 miles is for City  
3 Garbage Company trucks --

4 CHAIRMAN PENNINGTON: Excuse me. Identify  
5 yourself.

6 MR. GAMBELIN: I'm sorry. Donald Gambelin  
7 from Norcal Waste Systems.

8 The 906 miles is a daily number of miles for  
9 City Garbage Company trucks having to travel now,  
10 instead of to the transfer station in Eureka, to go  
11 from Eureka to Arcata. And we undertook that  
12 investigation, because at the August 26th meeting,  
13 Board Member Jones specifically asked staff, "What is  
14 the effect of those truck miles?" Staff responded that  
15 it was more traffic patterns, but we understood that  
16 when you ask a question like that you have to also  
17 include air quality issues. And so the 906 miles is  
18 day in and day out, five days a week City Garbage  
19 Company trucks -- collection trucks will travel an  
20 additional 906 miles to access that transfer station.

21 MEMBER EATON: Collectively.

22 MR. GAMBELIN: Above and beyond what they  
23 currently travel, collectively.

24 CHAIRMAN PENNINGTON: Mr. Frazee.

25 MEMBER FRAZEE: Could I follow up on that  
26 either with the gentleman who presented the air quality



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1 information?

2           The figures that you calculated on the  
3 impacts of the additional trucks plus the line haul,  
4 did you deduct from that the offset that would occur by  
5 the fact that those trucks no longer go to the existing  
6 transfer station, and then the impacts of the haul of  
7 the transfer trailers to the Cummings Road landfill and  
8 then the operation of the Cummings Road landfill? Did  
9 you deduct all of those out of the equation?

10           MR. SULLIVAN: No, I did not, and there's an  
11 actual reason that I did not. Your ruling on this  
12 particular application today has no bearing on whether  
13 the Cummings Road Landfill closes or does not close.  
14 Cummings Road Landfill permit is still open and they're  
15 able to take waste up to a certain amount. So to  
16 subtract that out, it would not be proper in this case.

17           And, second, there is ways to gain offsets  
18 through CEQA, but that should have been done through  
19 the CEQA process and if they chose to use that as a  
20 mechanism to offset emissions, then they could have  
21 done that as part of their air quality impact analysis,  
22 but, again, the Cummings Road Landfill is not closing  
23 at this time.

24           MEMBER FRAZEE: But the fact is, there's  
25 only so much garbage generated in the county, and if it  
26 doesn't go -- or if it goes through this process and

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1 doesn't go through the other one, there is, in fact, an  
2 offset?

3 MR. SULLIVAN: I think I'll let City Garbage  
4 answer that.

5 MR. GAMBELIN: I'm sorry. Let me address  
6 that.

7 The reason that there were no miles  
8 subtracted for the trucks that currently have to go to  
9 Arcata -- I'm sorry -- that currently go to the Eureka  
10 transfer station and now will go to Arcata, that may  
11 well be the case. What we're saying is that we only  
12 have data for our vehicles, and our vehicles alone will  
13 generate that additional 906 miles per day, and that  
14 that alone is another 45 tons per year, which is three  
15 times, or close to three times, the significance  
16 threshold that the North Coast Air Quality District  
17 identified.

18 So we recognize that there may be some  
19 reduction because, say, for instance Arcata garbage now  
20 does not come down to Eureka, or vice versa. We  
21 recognize that. There's no quantitative data to  
22 support that conclusion, and we simply looked at our  
23 vehicles because that's what we're able to generate  
24 data for. We know --

25 MEMBER FRAZEE: But it just seems like in  
26 fairness that you're you should have deducted out, when

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1   you're adding the fact that those had the longer haul,  
2   you should have been deducting out the fact that they  
3   no longer go the transfer station, your transfer  
4   station, and then would no longer would those transfer  
5   trailers go to the Cummings Road Landfill.

6                   MR. GAMBELIN:  We can only model what we  
7   have quantitative data for, and we have quantitative  
8   data from our vehicles.  If we had quantitative data  
9   from the applicant, we would have been able to  
10  incorporate that into screening level model.

11                   However, I do still state that without  
12  quantitative data on anybody's behalf, except for ours,  
13  where there may be some -- there may be some offsetting  
14  factors for reduction of PM10 because not as many  
15  trucks will come down into Eureka from Arcata.

16                   Again, there's no quantitative evidence.  We  
17  have that only quantitative evidence.

18                   MEMBER FRAZEE:  But in fact it exists?

19                   MR. GAMBELIN:  It must be exist because it  
20  is fact.  I mean, there might be a few garbage trucks  
21  that don't come down from Arcata.

22                   You still have -- Now what we didn't include  
23  on the flip side is that Eel River Disposal will now  
24  have to haul straight past Eureka Garbage transfer  
25  station all the way up to Arcata.  We didn't account  
26  for that either.  So perhaps those offsets from Arcata

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1 trucks not having to come down to Eureka is more than  
2 offset by Eel River having to travel the additional  
3 mileage up to Arcata also.

4           Again, no quantitative data -- we modeled  
5 what we could, what we have as factual data, and that's  
6 the results as you see on the Board.

7           MEMBER FRAZEE: My point exactly.

8           MEMBER JONES: Mr. Chairman?

9           CHAIRMAN PENNINGTON: Yes, Mr. Jones.

10           MEMBER JONES: On that line of questioning,  
11 I think it kind of goes to the heart of this problem is  
12 that, you know, you're raising what you consider to be  
13 a significant impact in the mitigation measures dealing  
14 with air. One of the issues that I brought up and had  
15 meetings with Supervisor Dixon and Mayor Benemann and a  
16 whole room full of people, was the self-haul issue, and  
17 I think that one of the points is, we kind of came to  
18 an agreement that their numbers didn't work on a  
19 self-haul capacity, and they're working on that, and I  
20 don't have a problem with that. But they, in the  
21 original document, which people have to use as the  
22 document, they did an extrapolation that said that a  
23 yard of garbage weighed 500 pounds, when, in fact, it  
24 doesn't. And they made their assumptions on capacity  
25 based on that 500 pounds and stated they needed this  
26 much capacity, needed 11,000 tons capacity. When you



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1 do the math, they still don't have enough capacity, but  
2 it goes to the air quality issues, I think, because if  
3 there isn't a self-haul option, which there isn't in  
4 Arcata, they're not determining exactly where all the  
5 self-haul options are, what does that add to the  
6 mileage, to the air quality issues where these  
7 Eel River, or whoever, now need to drive more  
8 frequently up to Arcata to dispose of that waste over  
9 and above the transfer station? There is a difference  
10 there, and I don't know what it is, but I don't think  
11 it is the opponent that raises the issue because they  
12 want to get our attention. They want to say, "We think  
13 there is a significant impact here," and they present  
14 evidence that we could all tear apart as to, "You  
15 didn't count this, and you didn't can count that," but  
16 it wasn't their job. It wasn't their job to do that.  
17 It was somebody else's job to do that. Now, whose job  
18 that was, I think that's the decision we're going to  
19 make today.

20 But I think clearly the questions asking why  
21 they didn't on their dime do an environmental impact  
22 report on air quality standards if they got shut down,  
23 probably they are not the people that would normally do  
24 that.

25 CHAIRMAN PENNINGTON: Okay.

26 Next.

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1                   MR. LA DUCA: Mr. Chairman, Marcus La Duca,  
2 again, for City Garbage. Again, if I could just have  
3 my concluding remarks.

4                   Again, the evidence before you is of a new  
5 significant impact in terms of an actual quantitative  
6 analysis, and I would agree with Board Member Jones,  
7 normally it's not the responsibility of a member of the  
8 public to do an entire environmental document on their  
9 own. In the two weeks now since your -- these  
10 comments -- these issues first arose in terms of the  
11 change of project, we did the air quality analysis to  
12 provide the quantitative data that we had asked for  
13 from Arcata time and time and time again, and no data  
14 was provided, no quantitative analysis.

15                   You now have a response before you that  
16 still is unsupported opinion. There is no data before  
17 other than the data that we have submitted, so you  
18 don't even get to the level of a disagreement among  
19 experts. There is only data from one side.

20                   Instead of local agency action as,  
21 Ms. Delmatier mentioned, this matter has been dumped --  
22 no pun intended -- in the laps of you, the responsible  
23 agency. As a responsible agency, you must, under CEQA  
24 guidelines 15096-F, consider the environmental effects  
25 of the project as shown in the EIR, or negative  
26 declaration. That section subsequently references a

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1 subsequent EIR section of CEQA. As we have shown, one  
2 of those conditions requiring a subsequent EIR, a new  
3 significant impact, has been presented to you in terms  
4 of the data.

5 I'd like to reference page 3, Item 2 of your  
6 proposed addendum, which purports to present evidence  
7 supporting the finding of no impacts for the changed  
8 project. The entire paragraph talks of the number of  
9 truck trips between Arcata and Medford, the number of  
10 truck trips, but then concludes that the data on the  
11 number of truck trips supports a finding of no  
12 significant traffic or air quality impacts. Those were  
13 the and air quality.

14 MEMBER EATON: Could you just point it out  
15 so that we're following? We've got a lot of papers ,  
16 so I just wanted to kind of --

17 MR. LA DUCA: Page 3 of the actual addendum  
18 document itself, and it has a number "2" with a  
19 heading, "Evidence for Conclusion Regarding No Impacts  
20 of Transport of Waste to Medford, Oregon landfill."

21 MEMBER EATON: Okay.

22 MR. LA DUCA: This paragraph is nearly  
23 identical to the document that was presented by the  
24 City of Arcata to you approximately a week ago, except  
25 the words "and air quality" have been thrown in.  
26 There's a requirement under CEQA that present evidence,

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1 again, a finding of no significant impacts must have  
2 substantial impacts that support that finding.

3 As we have shown through SCS Engineers  
4 analysis, the only quantitative analysis, the only  
5 evidence you have, not just substantial evidence, the  
6 only evidence you have is of a significant impact  
7 requiring you to reject the addendum. This addendum  
8 has been thrown to this Board for your action.

9 Air quality has been indicated time and time  
10 again by this Board and your staff as an important  
11 issue, and your consideration of permits that come  
12 before you as recently as illustrated as your staff's  
13 letter to the City of Sacramento in August on the BLT  
14 Transfer Station in the city of Sacramento, which,  
15 again, had an EIR, an air quality analysis, and further  
16 comment letters from your staff asking that the  
17 quantitative analysis there, the detailed, 25-page  
18 quantitative analysis needed more analysis to be  
19 adequate.

20 The CEQA process here has been turned upside  
21 down. You simply have inadequacy piled upon  
22 inadequacy. We have provided detailed comments. We  
23 provided those to you at your August 26th meeting, a  
24 summary of those last week, on a dozen subject areas  
25 where we believe the CEQA analysis here is inadequate,  
26 and we'll repeat those again today. You have a lot of



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1 speakers. We summarized those in detail for you.

2           There are also a whole host of similarities  
3 between the permanent transfer station site and the  
4 site before you today. We've also outlined those, at  
5 least eight areas, that they're basically identical  
6 sites. So it's interesting that they note that there's  
7 going to be an EIR by the JPA as lead agency, when the  
8 JPA'S the applicant on a site that's basically, for all  
9 intents and purposes, identical for doing a different  
10 document. In this case, a negative declaration  
11 supported by an unsupported addendum.

12           Since the ball's been thrown into your  
13 court, you have no choice but to decide. We ask that  
14 based on the evidence before you, not on my opinion,  
15 not speakers who give unsubstantiated opinion, but the  
16 evidence before you, that you reject the addendum and  
17 instruct the city to do the CEQA review process the way  
18 it should have been done with an EIR, as the JPA, in  
19 fact, has proposed to do for the permanent site. An  
20 EIR must be prepared here and prepared at the level of  
21 government where it should have been done in the first  
22 place, by the local agency, following the requirements  
23 of CEQA.

24           We ask you to not set a precedent here, not  
25 come forward and to say that with some applications a  
26 wink and a nod, rushing something through at the very

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1 end, when the deadlines and time lines are known well  
2 in advance, that those, in fact, don't need adequate  
3 CEQA review or complete CEQA review, but in some cases  
4 some people get off with far less. We ask that  
5 everyone be treated the same in terms of compliance  
6 with State requirements.

7 With that I'd like to introduce  
8 Mr. Gambelin.

9 MR. GAMBELIN: Once again, Donald Gambelin  
10 from Norcal Waste Systems.

11 I do find it ironic that your staff and  
12 LEA's and other private participants are undergoing a  
13 three-day intensive CEQA training including today and,  
14 in fact, yesterday there were some air quality issues  
15 brought up, and one of the attorneys, I believe, from  
16 Remme Moose Law Firm made statements that there was a  
17 specific case that provided some clarification, and  
18 that was the Los Angeles Unified School District versus  
19 the City of L.A., and a court finding that a neg-dec  
20 could not be used because of potential significant  
21 impacts, and that there were no mitigations presented  
22 in that documentation in the neg-dec for air quality.  
23 So it's ironic that on one hand your staff is being  
24 told something in training, yet they're bringing  
25 forward something to you in the document that asks for  
26 your approval.

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1                   I also find it ironic that the applicant,  
2   the JPA, in a response to the Notice of Preparation on  
3   the permanent site recognized that -- and this is  
4   addressing air quality -- they made a statement -- this  
5   is the City of Eureka, who is a member of the applicant  
6   and the JPA -- "We do not believe" -- and this is  
7   speaking to air quality -- "We do not believe that a  
8   conclusion is appropriate without quantitative  
9   evidence." We've presented that quantitative evidence  
10  to you. We wonder why they haven't.

11                  As I did at the -- and I apologize for the  
12  size of that -- as I did at the August 26th meeting, I  
13  wanted -- I spoke on state minimum standards and  
14  compliance, and I wanted to touch on those again since  
15  you do have before you your second resolution as to  
16  whether or not this permit is consistent with state  
17  minimum standards, and I had a chance to take a look at  
18  the latest greatest version of the RSI just yesterday  
19  where staff made that available to me, and I can only  
20  conclude that Board staff, because of being pressed for  
21  time in this, didn't have adequate time to review,  
22  because in my experience with them they are very  
23  thorough in their evaluation, and they would have  
24  caught a lot of the inconsistencies that I did.

25                  The problem with inconsistencies in an RSI  
26  is, you can't make the finding that it's a complete and

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1 correct document, which is required under state minimum  
2 standards as part of the permit application. They are  
3 in size internally inconsistent and there are  
4 statements in that RSI that lead us to believe that  
5 it's inconsistent with the CEQA documentation,  
6 including the addendum that you're asked to adopt.

7           Let me give a couple of examples. On page  
8 40 it talks about utilizing traffic flows through the  
9 existing building as a mitigation for noise. I don't  
10 believe that that building can accommodate a transfer  
11 truck driving through to deposit its waste, yet that  
12 same document does recognize that self-haul waste that  
13 will go to other transfer stations, including City  
14 Garbage Company's transfer station will then after its  
15 receipt at those outlying stations will then come to  
16 this JPA transfer station. We took a look at that, and  
17 we, in fact, modeled it in our air quality modeling,  
18 but we will take that waste from our transfer station,  
19 and we will take it and transfer vehicles. That  
20 building cannot accomodate our transfer vehicles in a  
21 drive through, which is part of their noise control  
22 measures.

23           They also make a statement this is part of  
24 their odor control. It's a mitigation measure. It's  
25 one that they have in the RSI as a way of controlling  
26 odors. They state on page 41, "Waste will be



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1 completely removed from the tipping floor by the close  
2 of each operating day." Previously on page 20 they  
3 state, "Should waste be required to remain at the  
4 transfer station overnight, it will be stored in as  
5 small an area as possible in the loading area." That's  
6 inconsistent.

7 Controls against potential public health  
8 hazards. "Waste will be removed from the transfer  
9 station no later than the close of business each  
10 operating day, and waste will be loaded into sealed  
11 transfer containers, and the containers will be removed  
12 from the site immediately after loading." Previous to  
13 that on page 33, "Such sealed containers will be  
14 transferred from the transfer station within 48 hours."

15 Which is it? Is it immediate removal, or is  
16 it 48 hours? It's inconsistent. It is not in  
17 compliance with state minimum standards because of its  
18 inconsistency.

19 I also want to point to the addendum. The  
20 addendum says that you will use trip trucks currently  
21 hauling waste -- or not hauling returning empty to the  
22 Medford area, and the addendum itself says, "Typically  
23 they travel back to Medford empty," and "Typically  
24 there's 20 to 25 available on a daily basis."

25 Now I read that, and I say sometimes there  
26 may not be. What if there's not? If there's not, how

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1 do you remove your waste from the floor every day? How  
2 do you immediately remove it from the site and transfer  
3 it to the Medford, Oregon landfill? Again,  
4 inconsistencies.

5               Now, maybe they'll use different trucks.  
6 However, in the August 26th meeting, staff specifically  
7 clarified -- after we asked for clarification -- that  
8 the project could only encompass existing truck  
9 traffic -- could only encompass existing truck traffic,  
10 and your addendum supports that. So it's only to  
11 Medford. It's only in existing trucks. What happens  
12 when those trucks aren't available? I guess they  
13 respond in the RSI as they're supposed to, and it says  
14 that they can rent some additional ones and make a  
15 statement that you can call for extra vehicles. Again,  
16 I don't believe that's allowed, as required by your  
17 staff.

18               Also -- and this one's curious to me -- if  
19 failure -- and they're talking about systemwide failure  
20 or breakdown of transfer station, road closures, as  
21 somebody at the local level brought out, because that  
22 does happen. Their haul route does close down  
23 periodically in the wintertime. Their response is that  
24 "If failure exceeds station storage capacity" -- this  
25 is on page 28 of the RSI -- "waste can be diverted to  
26 the back-up landfill until prepares are completed."

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1                   Now, my understanding is there is no back-up  
2 landfill as part of this project, and staff  
3 specifically instructed the applicant that no back-up  
4 landfill was available. Brings up kind of a related  
5 point from the environmental documentation, and I  
6 refer, again, to the NOP prepared by the JPA, the same  
7 applicant before you today. When asked on one of the  
8 checklist items, initial study disposal -- or, I'm  
9 sorry, the initial study, there's a question on solid  
10 waste disposal, "Is there any impact?" Their  
11 statement, "It's a potentially significant impact. The  
12 reason, the solid waste disposal services for county  
13 residents would change dramatically."

14                   I then look at the checklist also prepared  
15 by the JPA for the temporary transfer station. That  
16 same question, solid waste disposal. Checkmark in the  
17 box, "No Impact."

18                   Now, are we to conclude, or are they asking  
19 us to conclude that by providing this temporary  
20 transfer station and the requirement to self-haul all  
21 over the place, which is the way I read it, that that's  
22 not a dramatic change for the solid waste disposal  
23 services for the county's residents, but the permanent  
24 site will be? It seems inconsistent to me.

25                   Actually with the inconsistent and  
26 incomplete RSI, obviously that's not in compliance with

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1 state minimum standards.

2                   When it comes to enforcement of the solid  
3 waste facility permit, what do you enforce? Do you  
4 enforce removal of waste from the floor every day as an  
5 odor control measure and a health hazard measure, or do  
6 you allow it to sit on site or 48 hours? If they just  
7 push it into a small pile, as they seem to say that  
8 they might need to do on a periodic basis, does that  
9 mean that they might be generating odors? Because part  
10 of their odor control measure is to remove it every  
11 day.

12                   Again, inconsistencies. With these  
13 inconsistencies, the finding cannot be made that you're  
14 in compliance with state minimum standards. It is not  
15 a complete and correct information package. It is not  
16 a complete and correct RSI.

17                   Thank you.

18                   CHAIRMAN PENNINGTON: Ms. Mudge, I'd like to  
19 let them get through and then give you a chance to  
20 rebut whatever it is you wish.

21                   MS. MUDGE: May I apologize. I need to  
22 leave to go to a hearing before a BCDC in Oakland, and  
23 I apologize, but if you would let me step in out of  
24 turn, I'd very much appreciate that.

25                   I would like to rebut this last-minute  
26 effort to raise a new alleged CEQA issue based on air



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1 quality impacts. I'd like to point out something that  
2 I know your satisfy is well aware of, and that is, the  
3 lead agency for this project for CEQA purposes is the  
4 City of Arcata, and in conjunction with the North Coast  
5 Air Quality Management District, they determined that  
6 an EIR was not necessary for this project.

7 Now, the North Coast Air Quality Management  
8 District commented on the CEQA process before the city  
9 of Arcata, and they have summarized for you in their  
10 letter to you dated September 17th their conclusions  
11 with respect to this project's impacts on air quality.  
12 I quote, "The district believes that the project is not  
13 significant in its potential effects to air quality,  
14 both on an individual basis, and when considered in its  
15 cumulative context. It will not cause or significantly  
16 contribute to the exceedence of any state or federal air  
17 quality standard. It will not interfere with the  
18 district's ability to implement its particulate  
19 attainment plan. It will not, we believe, present even  
20 the potential" --

21 CHAIRMAN PENNINGTON: Ms. Nudge --

22 THE WITNESS: -- "for significant effects."

23 CHAIRMAN PENNINGTON: I've got to stop you.  
24 She's out of paper.

25 MS. MUDGE: The North Coast Air Quality  
26 Management District is the agency that is -- to which

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1 the responsibility for the protection of air quality in  
2 that region is delegated, and they have reached these  
3 conclusions. As the responsible agency, you are bound  
4 to follow the determination of the lead agency that no  
5 EIR is necessary for this project except under very  
6 limited circumstances that are not present here.

7 Norcal Waste has come in and said to you  
8 that there are -- that there is evidence of an air  
9 quality impact where the North Coast Air Quality  
10 Management District has said there is none. They have  
11 said that we have not provided data to rebut their  
12 data. No CEQA analysis beyond what is already occurred  
13 has been required by the agency to which these issues  
14 are delegated, and in addition, the North Coast Air  
15 Quality Management District has shown you that Norcal's  
16 supposed data that they are bringing before you is  
17 flawed, and they have shown that to you in a number of  
18 instances. The reliance on the South Coast Air Quality  
19 Management District methodology is inappropriate for  
20 the north coast because of the differences in  
21 climatology. They have inappropriately substituted  
22 weight for bulk in their analysis of air quality  
23 particulate generation, and they have used a  
24 methodology that is appropriate for an analysis of  
25 stationary sources, not mobile sources, such as truck  
26 traffic.

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1                   So the data that they have presented to you  
2   is not substantial, credible evidence, and it does  
3   not -- this last-minute assault on the lead agency's  
4   determination, which was supported by the Air Quality  
5   Management District must be rejected.

6                   Thank you.

7                   CHAIRMAN PENNINGTON:   Thank you.

8                   MR. JONES:   Mr. Chairman, I have some  
9   questions for -- I've got a few questions for you.

10                  Tell me exactly, as the lead agency, what  
11   are our limited areas that we can object to, or our  
12   concerns can come up?   Because you've stated we don't  
13   have a right, but yet we're the ones that have to do  
14   the addendum, so I'd really like to hear exactly what  
15   our rights are.

16                  MS. MUDGE:   The determination of whether to  
17   prepare an environmental impact report in the first  
18   instance is delegated to the lead agency.

19                  MEMBER JONES:   Okay.   Now --

20                  MS. MUDGE:   The responsible agency has the  
21   ability to take over as the lead agency if within 30  
22   days it makes the determination that the environmental  
23   documents that were prepared by the lead agency are  
24   insufficient.

25                  I do not believe your staff has reached that  
26   conclusion, nor is it making a recommendation to you on

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1     that basis, and Norcal's testimony regarding air  
2     quality is not a sufficient basis on which to take over  
3     as lead agency.

4                 MEMBER JONES:   When the air quality  
5     district, when the first document was circulated --  
6     now, we've had this discussion.   You were in the room  
7     with Supervisor Dixon and the mayor and the manager.  
8     When this document got circulated, this is the document  
9     that the air district originally commented on, that  
10    there would not be a significant air impact; correct?

11                MS. MUDGE:   Correct.

12                MEMBER JONES:   And the option, the main  
13    thrust of disposal of the materials was by train.  
14    Okay.   Now, I don't think --

15                MS. MUDGE:   I don't think that's correct,  
16    sir.

17                MEMBER JONES:   I'm not sure that a train's  
18    pollution increases that much when it adds some other  
19    cars to it of solid waste, as opposed to an empty chip  
20    van, going empty up the hills in Humboldt County, now  
21    carrying, according to your document, 25 tons of waste.

22                MS. MUDGE:   Sir, I have to disagree with you  
23    that the negative declaration did not take into account  
24    truck traffic.   It absolutely did take into account the  
25    air quality impact --

26                MEMBER JONES:   We didn't take it out.



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1 MS. MUDGE: -- from truck haul, as did the  
2 addendum.

3 MEMBER JONES: But we didn't -- we didn't --  
4 we're the ones that took out the rail haul, so it was  
5 the alternative mode. It wasn't the primary mode.

6 MS. MUDGE: Sir, I don't think it follows  
7 that truck traffic was not addressed.

8 MEMBER JONES: Truck traffic was addressed  
9 to Medford, okay, as an alternative if trains weren't  
10 used; is that correct?

11 MS. MUDGE: And that --

12 MEMBER JONES: That's what your document  
13 says.

14 MS. MUDGE: And that has now been determined  
15 to be the preferred alternative and the scope of the  
16 project.

17 MEMBER JONES: Okay. And my question is  
18 that the issue has been brought to us about air quality  
19 issues, that in the public hearing, okay -- in the  
20 hearing where this document was circulated and the  
21 local air district commented that there wouldn't be a  
22 significant impact, these issues didn't come up because  
23 it wasn't the prime mode of transportation. Now that  
24 it's the prime mode of transportation and the issue  
25 comes up, we got a letter from the Air Quality District  
26 saying, "We dismiss all of those parameters."

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1 MS. MUDGE: You get a letter from the Air  
2 Quality District saying, "We have reviewed the impacts  
3 due to truck traffic, and we find them to be  
4 insignificant based on their methodologies."

5 MEMBER JONES: Okay. Based on your RSI?

6 MS. MUDGE: Based on their review of our  
7 project.

8 MEMBER JONES: That's where I'm confused  
9 because your RSI says there could be -- you know, we  
10 still don't know where all the self-haul garbage is  
11 going to. So you still don't know the amount of trucks  
12 that are going to be driving up to Oregon, and I'm  
13 wondering what they make the analysis based on, the 25  
14 loads a day, or the maybe 10 or 12 loads a day?

15 MS. MUDGE: They make the analysis based on  
16 the project as it exists before you today.

17 Thank you.

18 CHAIRMAN PENNINGTON: Mr. Frazee?

19 MEMBER FRAZEE: Yes.

20 I just wanted to make a point on the  
21 question of what the original project was, and the  
22 indication that it was a rail haul project. And  
23 reading from the original RSI, "In the initial phases  
24 of the project, municipal solid waste will be accepted  
25 and loaded by contractor into truck transfer trailers  
26 for shipment to Dry Creek Landfill. Then when road

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1 rail or transport containers are available" -- and it  
2 doesn't say when that is, that could be never. And so  
3 the question of whether or not this project description  
4 addresses trucks transport initially, I think, is very  
5 clear. That was the primary and initial designation  
6 was truck and not rail.

7 CHAIRMAN PENNINGTON: Okay. Can we go on  
8 with Norcal's presentation?

9 Mr. Sweetser.

10 MR. SWEETSER: Back on track.

11 Larry Sweetser, Director of Regulatory Affairs from  
12 Norcal Waste Systems.

13 I have a simple point here to address, and  
14 that is, last time on August 26th we clarified that the  
15 applicant was using 5001 AB section for performance,  
16 since they claimed that they were doing less than  
17 5 percent diversion that will occur at this facility.  
18 As we verified in the testimony that they're not  
19 allowed to do any significant diversion at this  
20 facility.

21 I wanted to walk the Board through the  
22 sections again. I know you know them, but let me get  
23 through this.

24 Here (indicating) we have in what was used,  
25 and I'll skip through that, that when you have a  
26 nondisposal facility element available out there, as we

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1 all knew, it has to include solid waste facilities and  
2 solid waste expansions. All those facilities that  
3 cover at least 5 percent have to be in the NDFE.

4           There's also the provision -- and that NDFE,  
5 where there's more than 5 percent have to be approved  
6 by the board. Now, if you have a transfer station with  
7 less than 5 percent, then it shall be included in the  
8 element. It has to be in the element. It does not  
9 need Board approval. And at this point, all the  
10 documents we've looked at with the NDFE, it is not  
11 listed at all. So we question the adequacy of that  
12 document and what the implications are for the  
13 Integrated Waste Management plan.

14           When we follow that out to the performance  
15 finding sections of 5001 AB, this is after the gap, and  
16 assuming if the facility did do more than 5 percent  
17 diversion, it would have had to have been described in  
18 the facility, go through the process, get Board  
19 approval. So if they get close to 5 percent, or they  
20 go over 5 percent, this permit would be invalid on the  
21 performance finding. It would not meet the standards  
22 for that, but the decision was that they claimed they  
23 were doing less than 5 percent, so they would fall  
24 under the B section, which says they're not required to  
25 comply with that section.

26           Those are all in there, but we've seen no



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1 demonstration. We looked at all the documents. We  
2 can't find anything that traces them to the fact that  
3 they're doing less than 5 percent diversion. We would  
4 like to have that questioned. The only references we  
5 find in the solid waste facility permit -- there's  
6 references in RSI that talks about storage areas for  
7 diverted waste. So they will do some diversion out  
8 there.

9               Further down, there's going to be a  
10 recycling drop-off center there. There's going to be  
11 collecting tires there. They're going to be taking out  
12 refrigerators there. We have no idea whether that's  
13 going to be close to 5 percent. Typically that would  
14 have been a term of condition in the permit, or  
15 somewhere in the process, that they're doing less than  
16 5 percent diversion. There's no requirement in here,  
17 other than a statement at one of the other meetings.  
18 There's nothing written out there that they weren't  
19 doing less than 5 percent diversion. What would happen  
20 at this facility if they do more than 5 percent  
21 diversion in violation of the conformance standard for  
22 this permit?

23               I feel it's incumbent to get on the record  
24 from the applicant that they will not do diversion at  
25 this facility, that they're required not to do that,  
26 that is the condition on which this permit would go

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1 forward. If it doesn't -- if they can't do that, then  
2 they would be inconsistent with the conformance  
3 finding.

4           You'll find it hard -- right at this point  
5 they're asking you to trust them. We find it hard to  
6 do so. They should have known better. They have done  
7 better. The applicant has experience in these projects  
8 before. So they have done better than this  
9 demonstration. They chose not to.

10           So that's my presentation.

11           CHAIRMAN PENNINGTON: Any questions of  
12 Mr. Sweetser?

13           Thank you.

14           MR. SWEETSER: Thank you.

15           CHAIRMAN PENNINGTON: Okay. Ms. Delmatier.

16           MS. DELMATIER: Mr. Chairman, members of the  
17 Board, obviously we respectively disagree with the JPA  
18 CEQA term.

19           If substantial evidence is presented that  
20 indicates that there is in fact a creation of the new  
21 significant impact, then CEQA statute and CEQA  
22 regulation requires that a new negative declaration or  
23 EIR be developed, and that's the issue before you  
24 today. That's your charge. They dumped this -- to  
25 reiterate Mr. La Duca's comment -- they dumped this in  
26 your lap. They're asking you to do the little dirty

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1 work for them. They could have addressed this issue  
2 locally. They choose not to.

3 In answer to Mr. Frazee's question about the  
4 primary mode of traffic, I'm reading from the Negative  
5 Declaration Project Description, page D-1. "The  
6 facility will provide transfer and transport of  
7 municipal solid waste by rail to the Potrero Hills  
8 Landfill in Solano county as its primary destination."  
9 That is lifted directly from the negative declaration,  
10 "as its primary destination," rail. That was the  
11 document that the city of Arcata considered. That was  
12 the document that the North Coast Air Quality  
13 Management District considered when it made its finding  
14 that there are no significant impacts.

15 We have provided you with the only analysis,  
16 with the only data that has been done on this project  
17 clearly indicating that there is, in fact, a potential  
18 significant impact.

19 The citizens of Arcata deserve the right to  
20 have their voice heard through the CEQA process. They  
21 deserve the right to address their issues before the  
22 city council of Arcata prior to this project being  
23 approved. If you wait until the city council after the  
24 fact decides to hear this thing and the project's  
25 already approved by you, the Board, you've rendered the  
26 whole CEQA process meaningless. It's a done deal.

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1 It's over with. Great, you have a hearing, but you got  
2 a permit, and you got a project that did not allow the  
3 citizens of Arcata to address their concerns before the  
4 city council because, in fact, there is a significant  
5 impact. They have that right. You ought to allow them  
6 to go forward with that right, and we take great  
7 exception that the city council has not, in fact,  
8 considered the significant impacts.

9               Mr. Sullivan used the applicant's own  
10 numbers. We didn't dream up these numbers. We lifted  
11 them from their application. These are not minor  
12 technical clarifications, and if their not minor  
13 technical clarifications, then you can't adopt this  
14 addendum. That's the only way you can adopt this  
15 addendum today is if you make a determination that  
16 there are no new significant impacts, and that there  
17 are, in fact, minor, technical clarifications. If you  
18 look at the numbers, if you look at the facts, then you  
19 must come to the conclusion that yeah, you know the  
20 citizens of Arcata in a nonattainment area have a  
21 right to be concerned about the serious potential  
22 degradation of their air quality in the north coast  
23 region.

24               What we've had to date is a shell game. You  
25 pick it up; we've got a rail haul project. We move it  
26 around. We pick up the next one; we got a truck haul



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1 project. We pick up the next one, significant impact,  
2 the air quality of the north coast. Oh, well, let's  
3 hide that ball again. Let's stop the CEQA shell game.  
4 Tell these folks to come back and do it right. Bring a  
5 proper document before the Board, and we have no  
6 objection to the project. The project gets approved,  
7 but don't establish this dangerous precedent, this  
8 dangerous path that we're walking down today if you  
9 don't disapprove this addendum that, hey, let's do it  
10 with a wink and a nod, ignore the facts and establish  
11 that, hey, if you don't do it right, we'll just put our  
12 blinders on. We'll participate with your shell game  
13 and we'll continue on, and, quite frankly, the citizens  
14 of Arcata have every right to follow through the  
15 appropriate venues that are available to you.

16 We urge your no vote. Please do the right  
17 thing.

18 I'll be happy to answer any questions.

19 CHAIRMAN PENNINGTON: Questions?

20 Okay. Thank you. Now we'll move to  
21 Aaron Isherwood and Laurel Impett.

22 MR. ISHERWOOD: Mr. Chairman, I would ask  
23 that the citizens of Arcata whom I represent be  
24 permitted to speak first.

25 CHAIRMAN PENNINGTON: Sure. I'd be happy  
26 to.

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1 Patti Stammer.

2 MS. STAMMER: It seems like only last week I  
3 was here.

4 CHAIRMAN PENNINGTON: I think you're right.

5 MS. STAMMER: My name is Patti Stammer, and  
6 I had a whole lot of things that I was going to talk  
7 about until I got here.

8 Frankly, I don't trust anybody anymore.  
9 That's the one thing I've heard here that makes me  
10 really concerned, and I personally am happy that this  
11 has come to you, because you are the only agency Board  
12 official representatives that I felt listened to the  
13 citizens of Arcata throughout this whole entire  
14 process. I feel that we have been boxed in between  
15 every acronym in the world, the AEDC, the ECDC, Arcata  
16 City Council, City Garbage, and I've read everything.  
17 I'm so sick of reading about this that I can't believe  
18 I'm wasting my life and my valuable days reading this.  
19 And what I found is that every single document I have  
20 come across is flawed, and I'm not an attorney. I'm  
21 not an air quality expert. I'm not a hydrologist. I'm  
22 not a CEQA expert. I'm a mom who owns a very  
23 environmentally benign business with my daughter in  
24 Arcata. I'm also a homeowner in Eureka, so I kind of  
25 cover the county. I've lived there for 30 years. I  
26 moved back to Arcata from Los Altos, where I grew up in

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1 the Bay Area, because I did not want to raise my  
2 daughter in a city environment where citizens had no  
3 impact, where the air quality, the water quality,  
4 everything else was at issue, and since I've been here  
5 this morning, I have heard potentially significant  
6 environmental effects, adequate mitigation, minimum  
7 standards. Well, I hate that. I don't want potential  
8 adequate minimum. I want absolute assurance that my  
9 community is not going to be destroyed because two  
10 people with very different vested interests are duking  
11 it out in the middle of my town, and I am relying on  
12 you as -- I don't know what. I mean, I'm hoping that  
13 the buck will stop here, and you won't let this happen.

14 I worked for a brief time for an  
15 environmental planner, so I know what a few words mean,  
16 but I certainly am not an expert. Our group got  
17 together and we had so many questions about the report  
18 that was initially in Arcata, the staff report, that we  
19 didn't want to be a group of nimbies saying, "Oh, no,  
20 nobody wants to deal with trash." We have never had a  
21 problem with the waste transfer station, and we've  
22 stated that right from the beginning from the very  
23 first time I heard about it.

24 Arcata's a community that it's entirely  
25 possible for them to develop a plan to deal with waste  
26 that could become an ecological, environmental and in

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1 every other way a model -- a world-class model. We've  
2 done it with our sewage treatment plant by baling out  
3 of a joint powers authority that wanted to railroad us  
4 into a plan that was not good for our town, and we  
5 developed the Arcata marsh Waste Treatment Center, and  
6 I have not seen this (indicating) photograph, but I  
7 hope that you will look at it closely, because the area  
8 that's directly across from 50 feet of asphalt is our  
9 wetlands marsh. It's a habitat where everybody in  
10 Arcata goes to walk, to relax, to renew ourselves, and  
11 I don't know about the studies. I don't know -- this  
12 study says this. This study says this. It's always  
13 been my impression that CEQA was designed to protect  
14 citizens against exactly this kind of thing, and if  
15 there is a debate that somebody says, "Oh, yes, this  
16 will hurt you," and somebody says it won't, it's CEQA  
17 that makes the regulations that decide, and that's all  
18 we've asked for as citizens right from the beginning  
19 from every single meeting we've ever been to is, "We  
20 don't object to this. Please do an environmental  
21 impact report which includes looking at alternative  
22 sites." This is the only site, regardless of what it  
23 says in this addendum that has ever been presented for  
24 public review that any of us ever ever seen. It was  
25 the only site that was presented to the planning  
26 commission to look at.



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1                   We just want absolute assurance that our  
2   interests are being looked after. This is my  
3   community, my neighborhood. This is where my daughter  
4   will live and raise my grandchildren, and I care about  
5   it. Not from -- I have no vested interest in this.  
6   I'm not going to make money in garbage, although  
7   apparently if I wanted to put a big trash collection  
8   bin at my storage units, I guess it wouldn't be too  
9   hard to get a permit in Arcata, even though it's right  
10  next to a big creek that runs right through the middle  
11  of my town. Apparently, it's not concerned.

12                  I feel there's significant impacts because I  
13  live in this neighborhood. I once won a photo contest  
14  called "Water in Humboldt County," and the area I  
15  photographed was this area because it floods. Every  
16  winter it floods. I don't care what the hydrologists  
17  and the runoff people will say. I live there. I walk  
18  there. I go there every day. It's under water, and in  
19  a 30-year event like we had two years ago, the water  
20  from there drains to my house. My house has a moat  
21  around it. I'm not relying on experts. I put on my  
22  boots to go out and get my mail. That area floods, and  
23  if you're going to potentially site something there  
24  that does have an environmental impact, I think  
25  somebody should come up and look at it about February,  
26  and the people who work there every day -- I was in a

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1 neighborhood pub on Saturday night, and a guy sitting  
2 next to me works out at this site, and he said, "Don't  
3 they know that this water just goes right into the  
4 bay?"

5 And I said, "Well, they say it doesn't."

6 And he said, "Well, I work there. I'm  
7 telling you it does."

8 I believe him. I don't believe experts who  
9 said the place was paved with asphalt. It's not paved.  
10 You walk around out there and, look, there's no  
11 pavement there. You watch the water. It runs into  
12 that (indicating) creek right there on that  
13 (indicating) may. It drains out. You can't walk there  
14 without boots.

15 I also know there's a very large flock of  
16 ravens that live in our neighborhood, which I  
17 personally happen to enjoy. I don't want them to call  
18 their friends and say, "Oh, free lunch." I don't want  
19 more gulls coming, and unless they've been hired from,  
20 you know, Alfred Hitchcock to be trained to not go to  
21 this therefore station, I think stringing up a few  
22 little fishing lines and putting it inside an enclosure  
23 is not adequate mitigation.

24 Apparently no one's addressed even vectors.  
25 They talk about rats. Well, for heaven's sakes, I live  
26 two blocks from a recycling center. Rats as big as my

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1 cats lope across my street. They are not trained to  
2 stay within 150 feet of their food source, and, you  
3 know, from my point of view, living in a house where  
4 all the people who live there, we have collectively  
5 nine cats. That is the only mitigation that I've seen  
6 in any of this that makes any sense. We have no bird  
7 problem. We have no rats. So I don't see cats  
8 mentioned in here anywhere as mitigation.

9 I just find everything about this to be  
10 slapdash, flawed, not in the best interest of Arcata.  
11 I asked at a town meeting -- I asked my city council  
12 members, "Why is this good for Arcata? Why are you  
13 considering this? Are you -- are we going to get any  
14 kickback from the tipping fees into the public coffers  
15 so we can improve our community? Do we get any tax  
16 money? Does any money flow into Arcata from this  
17 project that would make this beneficial on a level  
18 that, you know, trickles down, so to speak?" Not one  
19 answer. Nobody had anything to say about it.

20 When I asked, "Well, what's going to happen  
21 at the end of this?" Our concern has always been, and  
22 it's also in this addendum. I looked at the addendum,  
23 and it says that, "The City of Arcata will work with  
24 Arcata Garbage Company to site a transfer station."  
25 Well, it doesn't take a brain surgeon to figure out  
26 where that's going to be since they're going to leave

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1 the concrete pad.

2               So I find that the notion that this has even  
3 been presented to the citizenry or even considered as  
4 temporary to be just ludicrous. It is not temporary.  
5 It has to be considered as permanent, and I think the  
6 whole project should be considered as a whole. This  
7 isn't a temporary part of it. This is a part of the  
8 project, and all we've ever asked for is a fair  
9 impartial, unbiased, environmental impact report, and  
10 I'm hoping that you will grant that to us.

11              And I say, again, the citizens of Arcata are  
12 not opposed to the transfer station. We are opposed to  
13 the process and to the flawed reasoning on all sides.  
14 From everything I've heard here, it just doesn't add  
15 up.

16              So does anybody have any questions they'd  
17 like to ask me since I -- apparently I'm the only one  
18 who lives there and knows what happens there? Our city  
19 doesn't seem the to know.

20              CHAIRMAN PENNINGTON: I think we're fine.  
21 Thank you.

22              MS. STAMMER: Thank you very much, and,  
23 again, I thank you for hearing us. It's very  
24 refreshing since it is not happening where we live.  
25 And I really urge you to look closely at that map and  
26 look for yourselves where our marsh is. It's a



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1 resource that needs protecting, and you're our last  
2 hope to do it. Please do it.

3 CHAIRMAN PENNINGTON: Thank you.

4 Next we'll have Dana Quillman.

5 MS. QUILLMAN: Hi there. My name's  
6 Dana Quillman. I'm a resident of Arcata. I was here  
7 last week speaking and I really appreciate the  
8 opportunity to come back and address you all again.

9 I live very close to the site. I want to  
10 say that I don't know what I think about transfer sites  
11 for Arcata or Humboldt County. I feel that what I've  
12 heard is that the county has been dissatisfied with  
13 their contract for a long time -- their current  
14 contract. Somebody said they've been working on this  
15 for nine years. I don't understand why the best they  
16 can do is wait till North Coast Hardwoods goes bankrupt  
17 this April and have to rush into a project like this,  
18 fast-tracking the whole thing.

19 I look at things in life, maybe something's  
20 meant to be, or maybe it's not meant to be. I guess I  
21 feel that the way this whole thing is being put forth  
22 to the people as temporary, when they really can't  
23 guarantee as being temporary. I don't think they have  
24 a permanent site in mind. I think it's going to be a  
25 long time before they have that underway, if it's ever  
26 going to happen, and to be selling it that way, I feel

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1 somewhat deceptive, because most people in Arcata want  
2 to believe their city council and their city staff to  
3 believe that what they're being told is true, and I  
4 don't think that it should have even been sold that way  
5 to begin with.

6               So I think I agree with Patti. Arcata's a  
7 progressive town. I think we can come up with some  
8 better ways. I've heard that if we take this contract  
9 and we find some collective way of decreasing our  
10 garbage in our county that our rates will go up,  
11 because its based on how much they take out. That  
12 doesn't seem to be a very progressive thing to be doing  
13 in this day and time. I think we can find better  
14 methods and ways to go and not get caught up in  
15 long-term contracts that are not progressive.

16               I also feel that we're a throw away society.  
17 We need to learn to do that differently. We need to  
18 set an example. If we have a landfill that has a  
19 certain capacity that's highly regulated, that they  
20 have been told has a certain life span, then I think  
21 that landfill should be used to that life span. We  
22 shouldn't be throwing it away before its time is up.  
23 It's too bad that the contract time and that didn't  
24 happen at the same time, but maybe this will give the  
25 opportunity for the county to go back to the drawing  
26 board and come up with a better solution that is not

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1 causing so much division in our county, making our city  
2 of Arcata so unhappy. Most of the residents in Arcata  
3 still don't even know this is happening because it's  
4 such a fast track. It creates mistrust in our  
5 community, the whole way that our city manager is the  
6 chairman of the JPA. Our mayor was allowed to vote on  
7 this at the city council. I don't understand. Who are  
8 we supposed to complain to about that? If our city  
9 manager and our mayor are involved in the very process  
10 of selecting this site, who are we as citizens supposed  
11 to say, "Hey, what's going on here?"

12           And I know that your agency doesn't want to  
13 be responsible for having to hear that kind of thing,  
14 but I don't really understand who else we're supposed  
15 to go to about that. Obviously they could not make  
16 objective analyses of this project since everybody who  
17 works in the city staff, their jobs rely on the mayor  
18 and the city manager. I mean put two and two together.  
19 It's just not adding up here.

20           I know you wanted expert testimony. I wish  
21 I could give it. I've talked to experts. I know  
22 experts in our community, and I know people that I have  
23 asked to come or fax you information. They don't want  
24 to get involved because they are involved in other  
25 projects with the city, through our city planning  
26 department. They're involved in maybe possibly even

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1 working with our city on projects. They don't want to  
2 get in the middle of this. Nobody does, and who would  
3 want to and threaten their career. We live in a small  
4 community and everybody knows everybody. You get  
5 blacklisted that way and that stays with you for a long  
6 time.

7                   So I'm real sorry to see that the city has  
8 not protected it's citizens better in this situation.  
9 I do feel that the area -- I live near the area. I  
10 live the equivalent of three houses from Sunol  
11 Boulevard. There's a stoplight on the street. Every  
12 time I hear every logging truck go by -- I hear every  
13 logging truck go by as it is, so now there's going to  
14 be 100 or so more going one direction than the other.  
15 They have to stop at this traffic light. They have  
16 to start up again. Diesel fumes, brake -- stuff from  
17 the brake pads coming off. There's all sorts of people  
18 that live around these industrial areas that this is  
19 going to be placed in. So whatever's going to go on  
20 that site now that North Coast Hardwoods will be gone,  
21 I think, needs to be something worth taking into  
22 consideration where it is. It's just downwind from our  
23 whole down. The prevailing winds blow from the south.  
24 That's when our rain comes. We smell the smokestacks  
25 coming from Somoa, from the pulp mill. Everybody  
26 smells that at certain times of the year, and that



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1 means the whole town will be smelling whatever odors  
2 this gives off, and I think there's tremendous problems  
3 with this.

4 I really urge you to not approve this and to  
5 force the county to take a second look. I don't know  
6 what their problems are with Norcal and City Garbage,  
7 but I do know that they've been in a relationship for a  
8 long time, and everybody's adults. There's mediation.  
9 Everybody knows what the problems are, so they're not  
10 new problems, where if you let this go through there's  
11 going to be a whole set of new problems, because there  
12 wasn't an EIR done, and all sorts of disillusionment  
13 and disgruntlement from the citizenry because of all  
14 the unknowns that are going to be occurring from this.

15 So I really, really urge you to oppose it,  
16 and I thank you for your time.

17 CHAIRMAN PENNINGTON: Any questions?

18 If not, now we'll hear from Michael Machi.

19 MR. MACHI: Michael Machi from Arcata.

20 I'm not concerned that much about the  
21 permanency issues of this facility. I am much more  
22 concerned about the process, too. The citizens of  
23 Arcata have got the short end of the deal at every turn  
24 of this process, and the most significant one that I  
25 see here, how we've been left out is in your list of  
26 whereases. It says that the city of Arcata has filed a

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1 notice of determination with you, and in part of that  
2 notice of determination, Exhibit B, page 11, it states  
3 that -- Number 7-C, "The revised mitigation measures  
4 and the project modifications agreed to by the project  
5 applicant were considered in a public hearing held on  
6 the 18th and 19th of August 1998 by the city council at  
7 which time all interested persons were given the  
8 opportunity to testify on the revised mitigations and  
9 project modifications."

10 That's absolutely not so. In the speed in  
11 which this thing has been pushed through, they sort of  
12 missed that one. We had public comment, and then it  
13 was shut down on the 19th, and the council proceeded to  
14 make many, many changes, which are listed in your  
15 addendum and in your addenda.

16 After that it was just passed with a big  
17 rubber stamp. The whole thing was just sent on  
18 through. There was never ever another public hearing  
19 listing of those changes that were made. In fact,  
20 today is the first time I've ever seen the list that  
21 has gone through.

22 MS. TOBIAS: Excuse me. Could you -- what  
23 are you reading from?

24 MR. MACHI: Notice of Determination, Exhibit  
25 B, page 11.

26 MS. TOBIAS: I don't think we know what

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1     you're reading from.

2                     Could you just clarify it for the record,

3     Georgianne?

4                     MS. TURNER: I think it's part of the CEQA

5     documentation. I'm going to look right now.

6                     MS. TOBIAS: Okay.

7                     MR. MACHI: That's --

8                     MS. TURNER: It's part of the mitigation

9     measures.

10                    MEMBER JONES: What page?

11                    MS. TOBIAS: From the negative declaration.

12     Okay.

13                    MS. TURNER: Actually, I'm sorry, that's

14     part of the staff report findings of for approval.

15                    Is that correct?

16                    MR. MACHI: Yes.

17                    MS. TOBIAS: So this is the city's document

18     you're referring to?

19                    MS. TURNER: Correct.

20                    It's almost at the very end of the document.

21     If you --

22                    MS. TOBIAS: The Board's wondering if they

23     have this in front of them.

24                    MS. TURNER: It should --

25                    MS. TOBIAS: Is it in the RSI?

26                    MS. TURNER: Yes, and it should be -- if you

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1 go all the way to the back and page backwards.

2 MS. TOBIAS: Oh, I see. It's the very last  
3 document that's in the RSI.

4 MS. TURNER: Exhibit B, page 11.

5 MS. TOBIAS: It's down at the bottom.

6 Okay. You could proceed. I just wanted to  
7 be clear on where you were.

8 MR. MACHI: Okay.

9 So CEQA regulations there state we have to  
10 have a public hearing on that, and that did not happen.  
11 It's not on the public record anywhere. It didn't  
12 happen. It was just approved. No one ever saw a list  
13 of exactly what they did -- we were never sure what  
14 they did, because they just proceeded at 11:00 o'clock  
15 at night to get to the end of this changing of the  
16 project to make it somewhat palatable, and that alone  
17 should send it right back to us. It doesn't even  
18 belong here at this point.

19 I'd like to also point out that this project  
20 was basically flawed from the very start. As Dana had  
21 said, the site, Somoa Boulevard site that we're talking  
22 about here, was not even considered at all until, I  
23 think, May 1st. It was a hardwood company. So that  
24 leaves only five months to get this whole process  
25 through and including construction time, and therefore  
26 it shouldn't have even been started because there was



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1 not adequate time for any public review with the strong  
2 possibility that it needed an EIR.

3           Again, as far as the CEQA documents in the  
4 initial study, they were prepared by the operator of  
5 the site, a subsidiary of ECDC, Waste Solutions Group,  
6 also part of the contractors who are operating the site  
7 and supplying transportation. They provide the  
8 prepared -- the initial study, and I consider that a  
9 very biased source of information. It was a very  
10 incomplete document. It had very many inaccuracies,  
11 and some of them have been addressed, but there are  
12 many more that have not even been considered at all  
13 until today, including all the air quality questions  
14 that were brought up. That was not even considered on  
15 the original document. The citizens of Arcata have not  
16 had a chance to discuss any of those things in any of  
17 the changes.

18           So I would urge you to reject this document,  
19 the resolution, on the basis of it's not following the  
20 CEQA regulations, and that the public does still need  
21 to have much more a say in this matter. And, you know,  
22 I'm just -- I'm very tired of everybody going back and  
23 forth saying, "Yes, it is." "No, it isn't," and there  
24 seems to be a huge lacking of any kind of  
25 documentation. It's just somebody's unverified opinion  
26 here, there, on both sides, and a little bit of

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1 documentation today. I think that the people of Arcata  
2 deserve to have their full comments as is required by  
3 CEQA.

4 Thank you.

5 MEMBER JONES: Mr. Chairman, may I ask  
6 Mr. Machi a question?

7 CHAIRMAN PENNINGTON: Yes.

8 MEMBER JONES: You participated in this  
9 process up there. When this thing went for -- in front  
10 of the planning commission, I'm assuming for the  
11 conditional use permit?

12 MR. MACHI: Yes.

13 MEMBER JONES: It was deemed rejected  
14 because it was a 2-2 vote?

15 MR. MACHI: Yes.

16 MEMBER JONES: That was after one day of  
17 hearings or two days of hearings?

18 MR. MACHI: That was after two days of  
19 hearings, because there were so many people who showed  
20 up at the first one, in spite of only noticing probably  
21 a dozen businesses and residents around the area that  
22 were 300 feet away. The word got out, and we had so  
23 many people there that flooded the meeting that they  
24 had to do a complete other meeting two weeks later.

25 MEMBER JONES: Okay. So the planning  
26 department comes 2-2, so it gets appealed to the city

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1 council of Arcata --

2 MR. MACHI: Yes.

3 MEMBER JONES: -- to deal with the

4 conditional use permit and the mitigated negative dec?

5 MR. MACHI: Yes.

6 MEMBER JONES: All right. When you said

7 that they got testimony from the public and then

8 stopped the process and then negotiated whatever they

9 negotiated, did that happen all in the first day, the

10 second day?

11 MR. MACHI: As far as the appeal by the JPA

12 to the city council, we had public testimony for -- it

13 was a special meeting, and it was from 7:00 o'clock

14 approximately to 11:30.

15 MEMBER JONES: Were the issues on the

16 conditional use permit, because if they appealed the

17 conditional use permit --

18 MR. MACHI: Yes.

19 MEMBER JONES: That's what they appealed;

20 correct?

21 MR. MACHI: Yes.

22 MEMBER JONES: So that went to the city of

23 Arcata and the public testified -- or everybody

24 testified from 7:00 o'clock at night until when?

25 MR. MACHI: Approximately 11:30.

26 MEMBER JONES: All right. And then was it

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1 the conditional use permit that was negotiated?

2 MR. MACHI: The next day the council did  
3 deliberations on the project as a whole and decided to  
4 open up public testimony again for people who had not  
5 testified the previous day, and just a few people did,  
6 and it was still limited to three minutes for  
7 everybody, and some people who had testified the next  
8 day just got up there and spoke anyhow, and after that,  
9 the council negotiated with the applicants all the  
10 terms of the agreement as it was happening, after  
11 public comment was shut down.

12 MEMBER JONES: Okay. They were negotiating  
13 the terms of the conditional use permit?

14 MR. MACHI: Yes.

15 MEMBER JONES: Okay. Then when did they  
16 take the action on the mitigated negative deck?

17 MR. MACHI: It all got rubber stamped that  
18 evening.

19 MEMBER JONES: They're two different items.  
20 They're two different actions.

21 MR. SULLIVAN: I can speak to that.

22 MEMBER JONES: Wait.

23 MR. MACHI: I'm not sure on that one.

24 MEMBER JONES: Okay. 'Cause it is -- I see  
25 Katherine's not here, but it is an issue for me,  
26 because -- I wouldn't even think of -- I thought that



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1   you guys were negotiating the mitigated neg-dec.    You  
2   were negotiating the conditional use permit.   So I'm  
3   wondering if what --

4               MR. MACHI:   We don't even know what they  
5   were negotiating as such.   They just got up there --

6               MEMBER JONES:   Then I don't feel alone.

7               MR. MACHI:   Yeah.   I have no idea what they  
8   did.   Like I say, the first time I've seen any of this  
9   was today -- or yesterday.   I got a fax showing a list  
10   of what exactly the council had done.

11              MEMBER JONES:   All right.   I'll safe this  
12   question for others later on, but I think it is  
13   critical from a standpoint of what was being proved,  
14   the conditions of the use of the property, or the  
15   mitigated negative dec.   And so I will -- I appreciate  
16   it.   Thank you.

17              MR. MACHI:   Please do, because I don't know.  
18   After being there the whole time, I have no idea  
19   exactly what they did.

20              MEMBER JONES:   Thank you.

21              MR. MACHI:   Thank you.

22              CHAIRMAN PENNINGTON:   Next we'll have  
23   Jeff Knapp.

24              MR. KNAPP:   Thank you for having us here.  
25   My name is Jeff Knapp, and I'm a citizen of Arcata  
26   where I've lived since 1995.   I'm a former attorney and

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1 now a recruiter headhunter of attorneys, and I wish I  
2 had 10 percent of the money being received by all the  
3 attorneys I've seen so far.

4 I have a six-year-old girl in an Arcata  
5 school, a ten-month-old son, and I own a home in  
6 Arcata. I do not live near this project.

7 I'm not opposed to a transfer station in  
8 Arcata if it makes economic and environmental sense and  
9 is consistent with our city's goals and policies. I'm  
10 not a not-in-my-backyard person, and there are many  
11 people like me, but who are still opposed to this  
12 project, and they could accept it, but for vital  
13 concerns that I think we share. My own concern is in  
14 several areas.

15 First, and you've already started to see the  
16 haste involved, is causing a lack of time that we've  
17 had in Arcata, but also in Humboldt County, because I  
18 don't think the citizens of Humboldt County really  
19 understand what this is all about. We haven't had time  
20 to learn what this project is.

21 Second, when we do learn, the time is up.  
22 We're suddenly finding hearings like this taking place,  
23 and this is, again, our first chance to be heard, and  
24 it seems very late in the process for, again, our  
25 learning about this and then looking around for a  
26 forum, and then further changes that are made by the

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1 proposed addendum, which, again, I have not seen until  
2 very recently.

3           It's obvious to me and to many of us the  
4 need for a full environmental impact report on this  
5 project, because it has so many significant local  
6 impacts. I don't speak the jargon. My practice of law  
7 of area was in pension plans, so I won't try and speak  
8 that language, but just a few common sense things that  
9 aren't addressed by the negative declaration but that  
10 would be addressed by an EIR.

11           Our roads are closed by floods and slides.  
12 Sometimes for long periods, and all this goes by truck.  
13 Detention basins fill up with rain and have no more  
14 room for whatever this project sends to them. A highly  
15 sensitive creek is next to the project. This area  
16 floods, and remember El Nino. We have a lot of  
17 earthquakes in our area. A lot of trucks make a lot of  
18 noise and dust. Garbage stinks; what will we smell?  
19 Truck drivers are in a hurry to get there and turn  
20 around, so a lot of truck traffic raises safety  
21 questions.

22           I've not seen these addressed in the  
23 negative declaration or any other documentation that  
24 I've seen, or if they've been addressed, it's obvious  
25 they have been addressed in haste with conclusions and  
26 without data.

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1                   Again, as to the haste involved, I'm  
2   starting to get telephone calls and comments from local  
3   stock brokers, business owners, homeowners, and the  
4   like, and they are both angry and surprised. They do  
5   not know the permit issued would be permanent. They do  
6   not fully understand where this site is until recently  
7   when our citizens group got some flyers and started  
8   hand carrying them here and there and our local  
9   newspaper started running some articles and letters to  
10  the editor. They certainly did not know that this may  
11  or will create higher costs to them as rate payers and  
12  risks, and that there are alternatives that haven't  
13  been explored.

14                  They had no idea this many trucks would use  
15  Somoa Boulevard, regardless of where they live. And  
16  they also don't know what alternatives sites there  
17  might be that they might actually favor, because,  
18  frankly, if this would bring money to Arcata, we  
19  certainly need it.

20                  And, finally, it's evident to me, both  
21  locally and talking around and also from here, there is  
22  no emergency. The alleged reasons for haste just don't  
23  add up.

24                  Also, what expertise I've seen applied to  
25  these questions by the city and its consultants seems  
26  to be, to me, hasty, poorly informed, and given enough



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1 time, our citizens group, as we speak, is trying to  
2 locate experts in geology, air quality, hydrology  
3 soils, liquefaction, and the other disciplines that you  
4 really need to hear from to find out what this is, but  
5 also, frankly, that our city needs to hear from, and  
6 they've not, because they have either been in a hurry,  
7 or they have hired people that, it seems to me, are  
8 giving them the answers they want to hear, but we need  
9 time, and we need a full EIR.

10 I love my city, but our city simply has not  
11 applied the resources to do the minimum review and  
12 public notice required by the law.

13 At the very at least, if you decide, which I  
14 hope you don't, to issue this permit, if there's any  
15 way you can do so with the condition that they first  
16 need to do the full EIR on this project. If that is an  
17 alternative, that would also serve us, but it's ironic  
18 that a city that requires an EIR of almost every  
19 project, and is the vein of every local developer that  
20 you can think of, does not require an EIR for a project  
21 like this when it is the project proponent.

22 Thank you for your attention. If you have  
23 any questions, I'll answer them.

24 CHAIRMAN PENNINGTON: Questions?

25 Okay. Thank you.

26 MR. MACHI: Thank you.

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1                   CHAIRMAN PENNINGTON: Okay. Now we'll here  
2 from Aaron Isherwood and Laurel Impett.

3                   MR. ISHERWOOD: There's one more member of  
4 the group that wants to speak.

5                   CHAIRMAN PENNINGTON: I'm sorry. I'm in a  
6 rush here. I'm sorry.

7                   Stan Henderson.

8                   MR. HENDERSON: Mr. Chairman, members of the  
9 Board, my name is Stan Henderson. I've lived in  
10 Arcata. I have a business in Arcata. Lived in Arcata  
11 for over 17 years. What I'd like to speak about is  
12 really from the ground. Again, I'm not an expert in  
13 anything.

14                   About a week ago I went door to door, and in  
15 five hours' time spoke to about 103 people. 101 of  
16 them signed the letters that you received by fax last  
17 week. Many of these people live on Tenth Street.  
18 Tenth Street floods every year. Tenth Street is just  
19 north of this project.

20                   Again, I don't know what experts will say,  
21 but the fact of the matter is, the area floods, and in  
22 connection about this, Patti mentioned the marsh  
23 project, 50 feet away from this proposed project.  
24 Well, that marsh is contiguous with Humboldt Bay, and I  
25 would like to submit a couple of letters.

26                   One is a letter that is -- can you hear me?

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1                   CHAIRMAN PENNINGTON:   Yes.

2                   MR. HENDERSON:   It seems I'm going in and  
3   out.   This is a letter that was sent to our local  
4   chairman of the Fish and Game Commission, Geoff Neely,  
5   and it's from the State Department of Fish and Game,  
6   and they are concerned with spillage into state marine  
7   near-shore environments.   They're asking his opinion  
8   about any problems in our local area.   I'd like to  
9   submit this to you, and in connection with this, I have  
10   a letter from Mr. Neely, who's acting in a private  
11   capacity since the Fish and Game Commission has not met  
12   on this yet.

13                  I'd like to read it to you.   It's very  
14   brief.   It's addressed to Mr. Pennington.

15                  "Dear Mr. Pennington, thank you for your  
16   rapid response to my letter of the 14th of September.  
17   I do indeed appreciate your concern.   There are some  
18   items that I did not bring to your attention at the  
19   last time of my letter.   I would like to bring them up  
20   now.

21                  "The California Department of Fish and Game,  
22   Office of Spill Prevention and Response Team Region is  
23   implementing a comprehensive geographic information  
24   system, GIS, for the California Marine near-shore  
25   environment.   This is defined as the area from the  
26   shoreline out to a depth 100 fathoms.

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1                   Since the proposed site location is at a  
2   water table of six inches above high tide, I have major  
3   concerns for our bay. Just to name a few of the  
4   species and companies that could be impacted by a  
5   poorly located waste transfer center: Coho salmon  
6   freshwater creek estuary is in northern Humboldt Bay;  
7   Sturgeon spawn in north Humboldt Bay; halibut spawn in  
8   north Humboldt Bay; halibut sport fisheries, north  
9   Humboldt Bay; Coast Oyster Company, north Humboldt Bay.  
10   This is one of the largest commercial oyster beds, if  
11   not the largest, in the world.

12                   "Please take these into consideration before  
13   your final decision is made, and I would like to know  
14   what the California Department of Fish and Game Spill  
15   Prevention Response Team would have to say on this  
16   issue."

17                   I'll submit these.

18                   In conclusion, I would just like to say  
19   Arcata's a small town. This is a project six blocks  
20   from the city center. We're on the ground. We are the  
21   people that are going to have to live with the results  
22   of this decision. I hope that you'll consider this.  
23   We're the ones that are going to smell the foul air.  
24   We're the ones that are going to have to deal with the  
25   increased rodent population. We're the ones that are  
26   going to see a world-class marsh project threatened.



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1                   So I hope that you will take all of these  
2 nonexpert observations into consideration.

3                   Thank you.

4                   CHAIRMAN PENNINGTON: Thank you. Any  
5 questions?

6                   Thank you, Mr. Henderson.

7                   Now we'll hear from Aaron.

8                   MR. ISHERWOOD: Thank you. Good afternoon.  
9 I think it's afternoon now. My name is  
10 Aaron Isherwood, and I'm an attorney with the law firm  
11 of Shute, Mihaly & Weinberger. We represent the United  
12 Neighborhood Alliance of Humboldt County. You've heard  
13 from a few members of that group today. They've come  
14 up with a name for themselves, and the Alliance is --  
15 we're dedicated to protecting the environment and  
16 quality of life for the people who live and work in or  
17 around the city of Arcata, and you've already heard  
18 from a few members of the group this morning about some  
19 of the significant environmental impacts that they're  
20 concerned about that may or will result from this waste  
21 transfer station.

22                   These folks that you've heard from have  
23 certainly travelled a long way to share their concerns  
24 with you. I heard that they arrived last night about  
25 2:00 o'clock in the morning because of fog. Their  
26 flight was cancelled, but I'm sure I speak for all of

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1    them when I say that they very much appreciate your  
2    giving them this opportunity to express their views  
3    about the project, and I know they appreciate your  
4    attentiveness to their concerns.

5                As their attorney, my purpose in speaking to  
6    you today is just to provide a legal context for their  
7    comment for you to consider as you deliberate on the  
8    addendum and the permit applications we have before you  
9    today. I know you've heard quite a lot already, and I  
10   imagine everyone's getting a little hungry, so I do  
11   promise I will keep my comments very brief and to the  
12   point.

13               The bottom line here is that the  
14   environmental review, which has been performed by the  
15   City of Arcata for the waste transfer station, is  
16   wholly inadequate and falls far short of the  
17   requirements of the California Environmental Quality  
18   Act. Now, we heard from the CEQA attorney for the  
19   Authority that you should simply defer to the city's  
20   environmental documents. With all due respect, that's  
21   ridiculous. As a responsible agency you have an  
22   obligation to ensure that the environmental review for  
23   this waste transfer station complies with CEQA, and  
24   it's particularly, in light of the fact that the city  
25   has provided this addendum and asked you to approve  
26   this addendum, you most certainly do have a role to

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1 play here. So I would urge you to consider the  
2 comments about the environmental review that has been  
3 taken by the city and consider those very carefully,  
4 and in light of what you've heard today and in the  
5 past, there can be no doubt that an environmental  
6 impact report should have been prepared for this  
7 project.

8                   The California Environmental Quality Act  
9 provides a very low threshold for when an environmental  
10 impact report must be prepared, and, in fact, the  
11 California Supreme Court has consistently held that an  
12 environmental impact report must be prepared whenever  
13 it can be fairly argued that the project may have a  
14 significant effect on the environment. Not that it  
15 will have a significant effect, but that it may have a  
16 significant effect. And you should also know that  
17 under this standard the courts do not defer to the  
18 agency's decision not to prepare an EIR. And as the  
19 Court of Appeal stated recently in striking down a  
20 city's decision not to require an EIR, and I quote,  
21 "Deference to the agency's determination is not  
22 appropriate, and it's decision not to require an EIR  
23 can be upheld only when there is no credible evidence  
24 that the project might have a significant environmental  
25 impact."

26                   Now, let's say you've got a disagreement

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1 among experts about whether there's significant  
2 environmental impacts. Can the agency, the city in  
3 this case, simply defer to its own experts? Can you  
4 simply defer to the Air Quality Management District  
5 which has submitted some comments on the expert air  
6 quality analysis that was provided to you today? CEQA  
7 says the answer is no. The CEQA guidelines -- state  
8 CEQA guidelines expressly provide that if there is a  
9 disagreement among experts about whether the project  
10 may have a significant environmental impact, the agency  
11 must prepare an EIR. CEQA guideline Section 15064-H.  
12 And that makes sense if you think about it, because the  
13 whole purpose of an EIR is to find out -- identify the  
14 potential impacts and analyze them and determine what  
15 the extent of those impacts are. That's why you do an  
16 EIR, and I just want to tell you about just one case  
17 just to show you how this standard plays out.

18 In 1994 the Court of Appeal decided a case  
19 called Quail Botanical Gardens versus City of  
20 Encinitas, and in that case the city certified a  
21 mitigated negative declaration for a small 40-unit  
22 subdivision, just as the City of Arcata did here for  
23 the waste transfer station, and the court held that the  
24 city prejudicially abused its discretion by not  
25 requiring an EIR for the sole reason that there was  
26 evidence in the record that the project would diminish



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1 people's views of the ocean from a public park, and the  
2 court reached that conclusion even though the city had  
3 required the applicant to mitigate the adverse impact  
4 on views by constructing the subdivision so that it  
5 would be no higher than four feet above eye level from  
6 the perspective of person trying to view the ocean from  
7 the park, but the court found that even with that  
8 mitigation there was evidence that the project might  
9 have a significant adverse impact because a child or a  
10 person in a wheelchair would have their view of the  
11 ocean obstructed.

12               Now, in the case of the waste transfer  
13 station, we're not just talking about an obstructed  
14 view of the ocean. We've heard about significant air  
15 quality impacts. We've heard about water quality  
16 impacts, odors, noise, rats, a whole host of other  
17 potentially significant impacts.

18               In these circumstances it is clear that an  
19 environmental impact report must be prepared to  
20 evaluate these impacts, but the city hasn't done that,  
21 and it hasn't complied with CEQA, and for that reason  
22 we strongly urge you to reject the permit application  
23 that you have before you today and send this whole  
24 thing back to the city so that they can get it right.

25               Now, the second thing I want to talk about  
26 is specifically about the addendum you have before you.

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1 As you know, the project that you're considering today  
2 is not the same project that was evaluated by the city  
3 when it certified the negative declaration. Under the  
4 revised project as we know, solid waste will no longer  
5 be transported by rail but instead will be hauled up to  
6 Oregon in trucks. Now, that change should have  
7 prompted additional environmental review, but the city  
8 hasn't done that. Instead all the city has done is  
9 prepared this addendum, which has never been circulated  
10 for public review.

11 Now, CEQA says you can do an addendum but  
12 only when there are minor technical changes to the  
13 project. Is this a minor technical change? Are we  
14 talking about correcting a typographical error, adding  
15 a few words here and there? Of course not. We're  
16 talking about a fundamental change in the way that  
17 waste will be transported from the waste transfer  
18 station. Now, will that change result in new  
19 significant environmental impacts? The fact is that we  
20 don't know. I think Board Member Jones pointed that  
21 out, because the city hasn't done the environmental  
22 analysis to enable you to make that determination.

23 We've heard, "Well, these trucks are going  
24 up to Oregon anyway, so there won't be any impacts."  
25 That's the addendum says, but we've also heard expert  
26 testimony today that trucks loaded down with garbage

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1   emit a lot more pollutants than empty trucks. The  
2   addendum doesn't even address that issue. So what  
3   we've got here -- we also received a fax from the Air  
4   Quality Management District, which the public hasn't  
5   had opportunity to review and comment on. You know, I  
6   haven't even seen this yet, and at best that creates a  
7   disagreement among expert. You've got the Air Quality  
8   Management District expert saying one thing unsupported  
9   by any quantitative analysis. You've got experts in  
10  air quality analysis, who have spoken to you today, who  
11  say that there will be impacts. Disagreement among  
12  experts, that means you've got to prepare an  
13  environmental impact report. Then the city can defer  
14  to its own experts if it wants to, but we don't have  
15  the information yet.

16               Even if the city had conducted the  
17  environmental analysis and concluded that there aren't  
18  going to be significant impacts resulting from this  
19  change -- this switch from rail to trucks, the proper  
20  course would have been, in that instance, to prepare a  
21  subsequent negative declaration. Circulate that for  
22  public review. Allow public comment. Allow comment  
23  from the responsible agencies, and then certify that,  
24  if the city so choose, but instead the city hasn't done  
25  that. They have simply sloughed this whole problem off  
26  on the Board, and your response should be to send this

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1    thing right back to the city where it belongs so the  
2    city can perform its obligations under CEQA and get it  
3    right.

4                   So to summarize, there's a very low  
5    threshold under CEQA for when an EIR is required.  If  
6    there's any substantial evidence in the record, the  
7    project might have a significant environmental impact,  
8    and the city has got to prepare an EIR, and since  
9    there's been a change in the project subsequent to the  
10   city's approval of the mitigated negative dec, then the  
11   city has to undertake further environmental review to  
12   determine what the impacts will be that will result  
13   from that change.  Simply preparing an addendum is not  
14   enough to comply with CEQA, and since the city hasn't  
15   complied with CEQA, this Board has no business  
16   approving this permit today or the addendum.

17                   That's really all I have to say, but I have  
18   brought with me today another person from our office,  
19   Laurel Impett.  She's not an attorney.  She's an urban  
20   planner, and she's also an expert in CEQA compliance.  
21   She's reviewed literally hundreds of CEQA documents,  
22   and so I'd like to turn it over to her to talk more to  
23   you today about whether the legal standards that I  
24   discussed that I've described have been met.

25                   If there are no more questions, thank very  
26   much.



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1                   MS. IMPETT: Thanks Aaron. Good  
2   afternoon -- it is afternoon -- members of the Board.  
3   My name is Laurel Impett. I'm a planner with the firm  
4   of Shute, Mihaly & Weinberger. I'm not an attorney.  
5   Before my tenure stint at Shute, Mihaly & Weinberger I  
6   was air quality specialist for the United States  
7   Environmental Protection Agency.

8                   And as Aaron said, there is a very low  
9   standard for the preparation of an EIR for this  
10  project. The construction and operation of this waste  
11  transfer facility at this location will result in  
12  significant adverse impacts. I'll cover only a few  
13  here, and I want to start with air quality, and because  
14  it has been covered so extensively, I won't go into a  
15  bit of detail other than confirm my agreement with the  
16  SCS Engineers report that the increase in PM-10  
17  emissions, as a whole different operation of the waste  
18  transfer station, will result in significant adverse  
19  impacts, especially because this a facility that will  
20  operate in a nonattainment area for PM-10.

21                  The fact that the Air District refutes the  
22  SCS study does not release the city, or this Board,  
23  from its obligation to prepare or rely on an EIR for  
24  the approval of this permit. In fact, the mere  
25  presence of the Air District in this forum demonstrates  
26  the vulnerability of this initial study and mitigated

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1 declaration, and I think, as Aaron noted, it's very  
2 important to note that this -- that the report prepared  
3 by the Air District has not been circulated to the  
4 public for public review and comment, and it's also  
5 important to note as others have before me that Air  
6 District provides no evidence supporting it's claim of  
7 an insignificant impact. It merely states those  
8 conclusions. The only evidence that is before this  
9 Board does demonstrate a significant air quality  
10 impact.

11               Yet another fundamentally significant impact  
12 to this project is the land use impact and the  
13 project's inconsistency with Arcata's general plan.  
14 Although land use is not necessarily within the  
15 jurisdiction of this Board, in this instance the Board  
16 must consider land use impacts since they are  
17 significant, again, constituting another impact under  
18 CEQA. As you know, under CEQA there's a presumption  
19 that a project will have a significant impact on the  
20 environment if a result in a land use conflict or if a  
21 project is inconsistent with the city's general plan.

22               Deciding of a waste transfer station at this  
23 location is directly inconsistent with Arcata's general  
24 plan and with its zoning ordinance, and I'll discuss  
25 just a few of these inconsistencies. The city  
26 regulates land use in areas with significant natural

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1 hazards by defining them as critical facilities.  
2 Arcata Zoning Ordinance states that "Critical  
3 facilities include essential facilities such as  
4 hospitals, schools, and other similar uses, which must  
5 be available to operate after a public emergency." In  
6 approving the project, Arcata identified the waste  
7 transfer station as, quote, "an essential public  
8 service."

9           The general plan's coastal element prohibits  
10 new critical facilities from locating in areas of  
11 potential liquefaction. The initial study for this  
12 project makes clear that this transfer station is  
13 located in an area of potential liquefaction. Deciding  
14 of the waste transfer station at this location is an  
15 egregious violation of the city's general plan.

16           In addition, the city zoning ordinance  
17 provides that a coastal development permit may be  
18 granted only if the development conforms with the  
19 coastal element. The coastal element in turn provides  
20 that conditional use permits for certain heavy  
21 manufacturing uses may be approved, quote, "only when  
22 no feasible less environmentally damaging alternative  
23 is available."

24           The project meets the coastal elements  
25 definition of a heavy manufacturing use, which includes  
26 salvage yards, the manufacture, refining, and storage

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1 of various items, including concrete and paving  
2 product. Arcata's failure to undertake this necessary  
3 alternatives analysis prior to issuing the conditional  
4 use permit renders the project directly inconsistent  
5 with both the general plan and the zoning ordinance.

6           Nowhere is the need for an EIR more apparent  
7 than in the issue of addressing environmental impacts  
8 associated with self-haul, or, more accurately, the  
9 deletion of self-haul component of this project. The  
10 city council deleted the self-haul component of this  
11 project allegedly to reduce traffic impacts, yet a  
12 member of this Board attested to the environmental  
13 impacts that could result from a project that does not  
14 include self-haul. Specifically approving a facility  
15 where self-haul is not allowed may substantially reduce  
16 the community's recycling efforts.

17           Eliminating self-haul opportunities may also  
18 result in illegal dumping of garbage. The issue of  
19 self-haul is multifaceted. The appropriate forum for  
20 studying impacts associated with self-haul is an EIR.

21           And I'd like to make just one additional  
22 point, and it's been raised, again, previously. The  
23 Humboldt County Waste Management Authority itself  
24 recognized the need to prepare an EIR when it released  
25 a notice of preparation for the, quote, "permanent  
26 transfer facility." Numerous agencies, including Cal



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1 EPA, commented on that NOP asserting their agreement  
2 that an EIR was an the appropriate forum for a waste  
3 transfer station. I have to ask this question, why  
4 would a permanent facility be any different from a  
5 temporary in this situation? It's not as if this  
6 facility were only going to operate for a week or two.  
7 The facility is going to operate for a minimum of two  
8 years.

9               Clearly, this waste transfer facility will  
10 result in air and water pollution. It will pose a risk  
11 of public health, increase traffic congestion in the  
12 area, and because the project is located a mere 1,000  
13 feet away from residences, residents will suffer from  
14 the nuisance of odors and high noise levels.

15              In addition, as previous members have  
16 stated, the site is located in a 100-year flood zone,  
17 and the site routinely floods. CEQA states that an EIR  
18 is required whenever a project will have a significant  
19 effect on the environment. It's that simple. The  
20 Board should not get caught up on the term "temporary."

21              Remember, all of the commercially hauled  
22 waste for six and possibly seven jurisdictions will  
23 that waste to this transfer station until a permanent  
24 facility is built. Clearly this is a project that will  
25 have significant impacts on the environment.

26              The Board has the discretion to approve or

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1 deny this project today. The question you have to ask  
2 yourselves is, are you relying on a legally adequate  
3 environmental document?

4 And I'll leave it at that. Thank you.

5 CHAIRMAN PENNINGTON: Questions?

6 MEMBER EATON: I just have one question of  
7 either you or the lawyer.

8 What group do you represent?

9 MS. IMPETT: We represent the group of  
10 citizens that were just talking, the United Alliance.

11 MEMBER EATON: And you've represented them  
12 in the past or is it just this time?

13 MS. IMPETT: No. They've retained us on  
14 this issue.

15 MEMBER EATON: Okay.

16 CHAIRMAN PENNINGTON: Any other questions?  
17 If not, I think that concludes our -- oh, Mr. Schaub.

18 MR. SCHAUB: I'm Victor Schaub. I'm the  
19 general counsel for the Authority, the applicant.

20 Besides being the general counsel -- that's  
21 a rather new role -- I also live in Arcata. I have for  
22 many years, and my children and grandchildren live  
23 there. Until two years ago I was a member of the  
24 Arcata City Council where I served for eight and a half  
25 years, and three terms consecutively was elected as the  
26 mayor, and when I served in that role I was on the

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1 Environmental Quality Policy Committee of the League of  
2 Cities for about five years and the equivalent entity  
3 at the national level. So I, too, have knowledge and  
4 sensitivity to the environmental impact issues, and,  
5 indeed, the city of Arcata, which has approved the  
6 environmental document before you, is probably one of  
7 the most environmentally conscious cities in this  
8 nation. I think that bares mention.

9 The city of Arcata conducted hours and  
10 hours -- 17 hours, at least, of public hearings on this  
11 matter, and that's chronicled also in the letter from  
12 John Woolley that you mentioned this morning, and I  
13 trust that that's becoming a part of the record?

14 CHAIRMAN PENNINGTON: It is.

15 MR. SCHAUB: Along with the communication  
16 from the Northern California Air Quality Management  
17 District as part of the record.

18 So what we're reviewing here today is the  
19 addendum to the environmental document. And it's my  
20 understanding that that addendum was requested by this  
21 Board and your staff. It's not something that was  
22 generated at the idea of the City of Arcata, and the  
23 key issue before us is whether or not there are  
24 significant changes represented in the addendum or  
25 whether they're minor technical changes. It all hinges  
26 on that. If this were significant changes, then I'd

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1 have to give a lot of credence to what City Garbage and  
2 Norcal have been telling you, but it all rests upon  
3 whether it's significant changes or minor changes.

4 In looking at the addendum itself -- oh, and  
5 by the way, in response to Board Member Jones' concerns  
6 about the process in Arcata, these (indicating) are the  
7 minutes of the meeting of the city council when the  
8 project was approved, and it clearly states that it was  
9 a public hearing on a consideration of two appeals of  
10 the planning commission's denial of conditional use  
11 permit and coastal development permit applications for  
12 a temporarily solid waste transfer station at the North  
13 Coast Hardwood site on Somoa Boulevard. And when you  
14 look at these minutes, this is almost a model of how  
15 the democratic process is supposed to work. Citizens  
16 were allowed numerous hours and reopenings of the  
17 public hearing to address their concerns, and in what  
18 was referred to by one of the speakers as negotiations,  
19 all that was going on was that the elected body was  
20 fashioning conditions to address the concerns expressed  
21 by the citizens during the public hearing process.  
22 That's the way this is supposed to work.

23 But looking at the addendum, getting back to  
24 the real issue here -- yes, sir.

25 MEMBER JONES: Can I ask a question on that?

26 MR. SCHAUB: Yeah.



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1                   MEMBER JONES: The item was a conditional  
2 use permit and the coastal permit?

3                   MR. SCHAUB: That's correct.

4                   MEMBER JONES: When did the city council  
5 vote on accepting the mitigated neg-dec?

6                   MR. SCHAUB: Well, that would have been a  
7 part of the motion.

8                   MEMBER JONES: Why would it be a part of the  
9 motion? The conditions on how you operate versus are  
10 there significant environmental impacts are two  
11 different things. They're two different items. The  
12 conditions of how you operate, how you use the land are  
13 one issue. The negative dec is another issue.

14                  MR. SCHAUB: They heard testimony on both at  
15 the same time.

16                  MEMBER JONES: When did they take the action  
17 to accept the mitigated negative dec?

18                  MR. SCHAUB: They did it all in one night.

19                  MEMBER JONES: So they crafted the  
20 conditional use permit and as a result of that, they  
21 voted on a mitigated neg-dec?

22                  MR. SCHAUB: No. They crafted those  
23 conditions in the context of the negative dec.

24                  MEMBER JONES: Okay.

25                  MR. SCHAUB: So the things in the addendum,  
26 the exact location of the project, that's just a little

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1 confusion over the number of different parcel numbers  
2 on the property. That's not a significant change.

3 The number and types of trucks, that was  
4 just clarifying the record. There's no -- all that was  
5 being clarified in that -- all that's being clarified  
6 in that is that the trucks that are hauling garbage out  
7 are trucks that are coming in anyway.

8 And then the self-haul, the reclusion of the  
9 rail movement, if anything, that contracts the project  
10 instead of expands the project, and the self-haul  
11 options, that's only a problem here because of the  
12 principle opponent of this permit, and that's City  
13 Garbage. The only reason there's a self-haul issue is  
14 because they won't tell us whether they're going to  
15 continuing operating or not.

16 And then the other one is to clarify that  
17 none of the environmental documentation for the  
18 temporary facility will be carried over and used by the  
19 permit for the permanent facility. That's the law  
20 anyway.

21 So those are the changes that are before  
22 you, and I submit that those are minor technical  
23 changes, not significant changes. The only thing  
24 that's been bought before you is this air quality thing  
25 and that's bogus. Clearly the report -- the  
26 responsible agency, the North Coast Air Quality Control

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1 Board -- or Management District, that is the entity  
2 with the primary responsibility in this issue. They  
3 had their input during the CEQA process. They  
4 determined that the data that's been presented to you  
5 was not necessary, and, in fact, the data eschewed.  
6 It's based upon criteria for the Southern California  
7 district and it replaces -- in its analysis, it  
8 replaces bulk with weight. That creates smoke and  
9 mirrors. It's not an issue.

10 I know that your job is difficult. I've  
11 been sitting in those chairs before many times, and I'm  
12 very familiar with the citizens that came and spoke  
13 before you. I've seen them at the microphone in front  
14 of the desk where I was sitting -- the same people  
15 saying essentially the same thing about other projects.  
16 And I know it's a difficult thing, but sometimes you  
17 have to do what you have to do, and the right thing to  
18 do here is to approve this environmental document and  
19 to approve our permit.

20 Thank you very much.

21 CHAIRMAN PENNINGTON: Okay. Any questions  
22 of Mr. Schaub?

23 MEMBER JONES: Mr. Chairman, I have a couple  
24 questions. I don't know if Mr. Schaub is the  
25 appropriate party to answer.

26 What date did the JPA establish with the

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1 contractor that's building the facility, that is  
2 supposed to be operational on October 1st, what date  
3 they give that he must be completed by?

4 MR. SCHAUB: By October 1st.

5 MEMBER JONES: So the building will be done  
6 in two weeks?

7 MR. SCHAUB: Well, we hope. We're not sure,  
8 and we have at the staff level discussed alternatives  
9 on a community-by-community basis for dealing with that  
10 issue, and we think we have it under control.

11 MEMBER JONES: And I asked the question  
12 because I was faxed newspaper articles from Arcata.

13 MR. SCHAUB: They're very inaccurate.

14 MEMBER JONES: But, you know, we can only go  
15 from what we read.

16 MR. SCHAUB: I hear you.

17 MEMBER JONES: It comes from the Arcata Eye,  
18 and there was a -- there's a quote here from --  
19 Kevin Hoover is the Eye editor?

20 MR. SCHAUB: The Eye editor and the reporter  
21 and everything.

22 MEMBER JONES: I've been in towns like that.

23 MR. SCHAUB: Publisher.

24 MEMBER JONES: I know. Believe me, you  
25 don't ever want to argue with a guy that buys ink by  
26 the barrel.



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1                   "Waste Transfer Station Delayed," and  
2   there's a quote in the third column that says -- they  
3   talk about the fact that City Garbage is willing to  
4   allow continued use of Cummings Road and some other  
5   stuff. Then it says, "Another JPA official said they  
6   would stack up garbage in the streets before they would  
7   do any further business with City Garbage."

8                   That's a quote in the paper. I don't know  
9   if it's right or not. I've been misquoted a lot of  
10  times.

11                  They also talk about how Mr. Kindsfather is  
12  going to look at some of the strike scenarios -- it  
13  happened in the Bay Area -- to decide how to handle  
14  waste in that community if this thing doesn't gets  
15  approved. I guess my question would be, what -- we're  
16  faced with a unique situation here. Is there an  
17  advantage gained by Norcal if we do our job?

18                  MR. SCHAUB: Absolutely.

19                  MEMBER JONES: So --

20                  MR. SCHAUB: Then we have no choice but to  
21  do business with them.

22                  MEMBER JONES: For how long?

23                  MR. SCHAUB: Forever, because so far, we've  
24  been shut out. We couldn't even make a deal with them  
25  over temporary transfer station that we only need for  
26  two years, and they insisted on a contract for ten

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1 years, and that's why we're here.

2 MEMBER JONES: But -- okay. And that's a  
3 problem. That's a huge problem for me --

4 MR. SCHAUB: Right.

5 MEMBER JONES: -- because -- just so  
6 everybody knows -- I don't want people leaving here and  
7 saying, "Well, that guy used to work for Norcal." I  
8 worked for Norcal for 18 and a half years. I was fired  
9 by Norcal. I didn't leave. I was fired.

10 MR. SCHAUB: Well, you still left.

11 MEMBER JONES: I still left, but I want you  
12 to understand that I didn't leave with a bouquet. I  
13 need you to understand that when I left there I went  
14 somewhere else and after there I came here. So it's  
15 critical that you understand that, because I don't want  
16 to broach a lot of questions that gives an advantage,  
17 where the regulatory demands on us in a level that we  
18 have to live by, which I've done a pretty good job and  
19 so has this Board for the two years that I've been here  
20 of upholding, this wouldn't even be an issue in my mind  
21 if it was another company. I would have taken an  
22 action that was clearly you would not have been happy  
23 with, but because I am a former Norcal employee, I have  
24 to make sure that I give a lot of credence to a lot of  
25 different things, because I don't want an advantage to  
26 be gained by us doing our job. By the same token, I

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1 think Norcal has a right, as do those citizens to bring  
2 up issues that they feel are pertinent to this process.

3 MR. SCHAUB: I absolutely degree,  
4 Board Member Jones.

5 Could I just point out though, that every  
6 local agency that has responsibility over aspects of  
7 this project has looked at it carefully and has  
8 approved.

9 MEMBER JONES: Except your planning  
10 department.

11 MR. SCHAUB: Except Norcal.

12 MEMBER JONES: No. Except your planning  
13 department in the city of Arcata.

14 MR. SCHAUB: There were some other --

15 MEMBER JONES: Your planning board voted --

16 MR. SCHAUB: There were some other problems  
17 with that having to do with timing and the number of  
18 planning commissioners that were there that evening  
19 because of people's -- in fact, I was on vacation with  
20 one of the planning commissioners myself at that time,  
21 and it was just a timing snafu, and it was really  
22 better for the citizens, for that matter, to just push  
23 the matter to the city council and have a full hearing  
24 rather than to dawdle around with the planning  
25 commission. I know that was a sentiment of some of the  
26 planning commissioners was to move it along so it could

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1     could get decided because they all knew that whatever  
2     was their vote -- whatever decision they made, it was  
3     going to get appealed to city council. So it might as  
4     well go there, and we're here right now, and most of  
5     the effort City Garbage is putting -- put into the  
6     project has been here at this level. They didn't offer  
7     their air quality analysis when air quality was being  
8     considered at the CEQA level below. They brought it  
9     here.

10                 I saw that as a common tactic when I was on  
11     the city council that people would just lay in the  
12     bushes and wait till it got to the city council and  
13     then experss themselves.

14                 Thank you very much.

15                 CHAIRMAN PENNINGTON: Okay. That concludes  
16     the public comment.

17                 MEMBER EATON: Mr. Chair?

18                 CHAIRMAN PENNINGTON: Yes, Mr. Eaton.

19                 MEMBER EATON: I've got a lot of paper in  
20     front of me, and we just had a letter read into the  
21     record from, I believe it was Mr. Neely. Just to  
22     ensure -- I want to make sure that every document that  
23     we have, because this is sort of an evidentiary kind of  
24     hearing, gets read into the record. That would  
25     include, both, Mr. Neely's comments, the addendum that  
26     we got this morning to the District's comments of



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1     September 16th, 1998, as well as the original document  
2     that we received from the Air Quality District  
3     yesterday, I believe -- late last evening. I was  
4     travelling, so I don't know exactly the day it came in,  
5     but I would like those, at least three things, read  
6     into the record as well as any other documents that we  
7     have, because that would then have a full and complete  
8     record. We went through some of the ex partes, but I  
9     believe there is a lot of paper floating around, as  
10    well as the chart here from -- that was presented by  
11    the expert for some of the opponents.

12                 Was that the only other documentation on the  
13    air quality stuff? Do we have some written  
14    documentation as well that should be part of the  
15    record, other than the oral testimony?

16                 MEMBER JONES: I think we did.

17                 MEMBER EATON: We had this chart. I just  
18    want to make sure that we have everything -- so that  
19    should go into the record in both, and then the letter  
20    by Mr. Neely, as well as the response by the --

21                 CHAIRMAN PENNINGTON: Fish and Game  
22    Commission.

23                 MEMBER EATON: Well, the Air Quality  
24    District, both their documents as well as this document  
25    from the expert.

26                 CHAIRMAN PENNINGTON: Ms. Tobias.

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1                   MS. TOBIAS: I appreciate Mr. Eaton's  
2    comments on those. I think that I should make it clear  
3    that all the documents that have been submitted to the  
4    Board at this point are a part of the administrative  
5    record. What I hear Mr. Eaton suggesting is that for  
6    the ones that have been turned in this morning, that it  
7    might be a good idea to read those into the record so  
8    that everybody is hearing them at the same time. So I  
9    think that's the difference of what he's saying in  
10   terms of -- the rest of the things that have been  
11   turned in our part of the record, but I think you've  
12   had a chance to review those.

13                  MR. SWEETSER: If I may clarify one point.  
14   Larry Sweetser with Norcal again.

15                  There was the air quality data from SCS  
16   submitted prior to the last hearing on the 10th. There  
17   were bullets on CEQA issues. There was a letter from  
18   us on the CEQA issues -- actually from Marcus La Duca's  
19   firm on that. So those were submitted prior to the  
20   last hearing, and those are on record.

21                  MS. TOBIAS: And those are all part of the  
22   administrative record.

23                  MEMBER EATON: And there were issues on air  
24   quality submitted with that as well?

25                  MR. SWEETSER: The SCS report was attached  
26   with the Sandberg & La Duca report that was submitted

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1 prior to the meeting on the 10th.

2 MEMBER EATON: So prior to the Board's

3 direction to staff, that evidence was in the record?

4 MR. SWEETSER: The meeting on the 26th, the

5 Board staff gave direction after that meeting in

6 preparation for the meeting on the 10th. In order not

7 to jam you at the last minute with data, we provided

8 that the day before the 10th, so it was after staff's

9 direction.

10 CHAIRMAN PENNINGTON: Okay. Are we fine?

11 MEMBER JONES: I'd just like to add just one

12 thing, Mr. Chairman, if you'll bear with me.

13 CHAIRMAN PENNINGTON: Excuse me. Just let

14 me check.

15 Are we okay?

16 MEMBER EATON: Yes. I just wanted to make

17 sure that we had the complete record just basically.

18 MS. TOBIAS: I think what we want to do is

19 read --

20 MEMBER EATON: And read into --

21 MS. TOBIAS: -- those into the record at

22 whatever point you think it's appropriate, Mr. Chair.

23 CHAIRMAN PENNINGTON: Okay. Go ahead --

24 MEMBER EATON: Perhaps if we could take --

25 CHAIRMAN PENNINGTON: -- Mr. Jones.

26 MEMBER EATON: A break or something, we

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1 could read them in at that time.

2 CHAIRMAN PENNINGTON: Yeah, we are going to  
3 break here in just a minute.

4 MEMBER JONES: Just real quickly. I read  
5 our proposed resolution for the consideration of  
6 adoption.

7 MS. TOBIAS: Do you want to finish with the  
8 member of the public, or did you close the hearing?

9                   CHAIRMAN PENNINGTON: Not yet, but we'll let  
10 him go ahead and speak.

11 MR. MACHI: Okay. As far as what I was  
12 talking about, I have the agenda for the special  
13 council meeting here and the listing, and I'd like to  
14 enter that into the record as being the "Review and  
15 Approval of the Proposed Negative Declaration and  
16 Required Findings to Approve Revisions to Mitigations."  
17 That's what I was talking about as far as what was  
18 being negotiated with the applicants at the time after  
19 the public hearing was closed.

20 MEMBER JONES: And that ran concurrently  
21 with the conditional use permit?

22 MR. MACHI: Yes.

23 MS. TOBIAS: And I believe the document he's  
24 referring to is in the RSI, so that is part of the  
25 administrative record.

26 CHAIRMAN PENNINGTON: You can leave it with  
129



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1 us, and we'll make sure.

2 MR. SCHAUB: He has his own copy, and it's  
3 highlighted. Is that appropriate?

4 CHAIRMAN PENNINGTON: No. We've got that in  
5 the record.

6 MS. TOBIAS: If he'd like to bring it up  
7 here, I'll look at it, but my understanding it's the  
8 findings that are made by the City of Arcata in the  
9 adoption of their and neg-dec and the C of P, so I  
10 think it's part of the -- this is page 13 he's  
11 referring to that's in the RSI. So we have this as  
12 part of the record.

13 MEMBER JONES: Mr. Chairman.

14 CHAIRMAN PENNINGTON: Okay. Mr. Jones.

15 MEMBER JONES: On Mr. Eaton's -- following  
16 upon Mr. Eaton's request that things be entered into  
17 the record and while we do enter all our ex partes --

18 MEMBER EATON: And read into the record,  
19 because it's an evidentiary kind of thing. I think  
20 that's the point counsel tried to make. I just want to  
21 make sure it's read in the record so it looks like  
22 there was -- at least the information was, you know,  
23 presented and presented and then part of deliberated  
24 process.

25 MEMBER JONES: Then at that time when we  
26 read those in, I want to read in -- because of our

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1 proposed resolution to consider this addendum, there's  
2 language that refers to competitive and revengeful  
3 reasons and things like that. I want to read into the  
4 document the letters I received from Humboldt County,  
5 from Supervisor Dixon, Woolley, and John Murray, which  
6 also go to an adversarial relationship with the  
7 operator for a number of years. I mean, if it's  
8 revengeful, it's on both sides of this issue, and I  
9 don't particularly enjoy reading an addendum that sets  
10 up a lawsuit.

11 CHAIRMAN PENNINGTON: Okay. What we're  
12 going to do now is we're going to break. We're going  
13 to in recess into a closed session to discuss some  
14 litigation, and we'll be back at 2:00 o'clock.

15 I know you all are anxious to go home. So  
16 are we, but we have lawyers scheduled actually for 15  
17 minutes ago. So we've got to break now.

18 We'll see you at 2:00 o'clock.

19 (Lunch break.)

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1                                   AFTERNOON SESSION

2                   CHAIRMAN PENNINGTON:   Okay.   We're back.

3   Where were we, now?   I guess we need to -- first we  
4   need to get these -- first I guess I need to close the  
5   public testimony, so officially we're going to close  
6   the public testimony, and thus the public hearing  
7   portion of this particular item.

8                   Now, we need to talk to general counsel.

9                   Ms. Tobias, we need to talk to you about  
10  these documents that we have received.   I think that  
11  instead of taking the time to read them verbatim into  
12  the record, I think we all can agree that we have read  
13  them and understand them and make them a part of the  
14  record; is that correct?

15                  MS. TOBIAS:   That would be correct.   If you  
16  would just each -- I think for an overabundance of  
17  caution, if each of you could say that you have read  
18  them and that you do understand the information  
19  contained in them, I think that would be sufficient.

20                  CHAIRMAN PENNINGTON:   Mr. Frazee.

21                  MEMBER FRAZEE:   Yes.   Could we identify  
22  which documents?

23                  MS. TOBIAS:   Sure.   The documents that we're  
24  talking about is our letter dated September 17th, 1998,  
25  in the North Coast Air Quality Management District, an  
26  addendum -- let me say it the other way -- there's also

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1 a chart introduced by Norcal that's entitled, "Humboldt  
2 County Temporary Transfer Station Air Quality  
3 Impacts-Particulate Emissions," and then an addendum to  
4 the District comments of September 16th, which is dated  
5 on September 17th, which is a comment on that colored  
6 chart that I just referred to.

7 MEMBER FRAZEE: And then additionally,  
8 there's a Geoff Neely letter of September 16th, with an  
9 accompanying letter from the Department of Fish and  
10 Game?

11 MS. TOBIAS: Okay. Thank you. And both  
12 their North Coast letters are from Wayne Morgan.

13 MEMBER FRAZEE: So I have all those, have  
14 read them.

15 CHAIRMAN PENNINGTON: And understand them?

16 MEMBER FRAZEE: And understand them.

17 CHAIRMAN PENNINGTON: I, too, have read them  
18 and understand them.

19 MEMBER JONES: I have read them and  
20 understand them.

21 CHAIRMAN PENNINGTON: Mr. Eaton?

22 MEMBER EATON: I've received and read them  
23 and understand them as well.

24 CHAIRMAN PENNINGTON: Okay.

25 MS. TOBIAS: Thank you.

26 CHAIRMAN PENNINGTON: Now, we're going to



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1 start with Board members' comments.

2 Mr. Jones.

3 MEMBER JONES: Mr. Chairman, on that same  
4 item, I just wanted to -- an ex parte that I received  
5 from Supervisor Dixon, John Woolley, and the CEO  
6 John Murray. They were in the ex parte file. They all  
7 talk about a relationship with Norcal that one letter  
8 says, "During my tenure at Norcal through City Garbage  
9 has sued, threatened, and bullied this county. The  
10 Humboldt County Waste Management Authority was formed  
11 to allow local governments to own and control the  
12 essential solid waste facilities in Humboldt County.  
13 Eight proposals from private industries were received.  
14 City Garbage choose not to submit a proposal. Instead  
15 they're threatening lawsuits, lobbying against our  
16 endeavor every step of the way in order to force us to  
17 utilize their facility.

18 "We have followed the rules and regulations  
19 and are currently under construction so that we can be  
20 free of depending upon City Garbage and their  
21 facilities.

22 "I'd urge you to support our permit  
23 application."

24 Woolley's I think everybody got, and then  
25 one from John Murray, and I don't know if you each got  
26 the same letters. Murray talks for working for

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1 Humboldt County for 25 years, 24 of them in the public  
2 works department, that he was present when the City  
3 Garbage was purchased by Norcal.

4 "Due to difficulties dealing with the City  
5 Garbage and constant rate increases, the cities  
6 complain that they should have a voice in disposal and  
7 cost negotiations. I was one of the first people to  
8 propose the concept of the JPA. We waited until the  
9 end City Garbage's landfill franchise to embark on our  
10 project.

11 "City Garbage didn't submit a proposal nor  
12 did they respond to requests from other proposers to  
13 become partners in this joint proposal. We have tried  
14 to arrange an interim agreement, but they want 15 years  
15 or nothing. They want to keep us under the control.  
16 Each of the seven entities of the JPA voted unanimously  
17 to sign a contract with ECDC, and everyone is resolved,  
18 but we will not sign a long-term agreement with City  
19 Garbage unless we're ordered to do so by a court.  
20 We've followed CEQA. We have agreed to about five  
21 pages of conditions put on our permit by the City of  
22 Arcata.

23 "We have submitted the data that you  
24 requested and agreed to your conditions. We are  
25 deserving your support and request to vote in favor."

26 The reason I read those letters, and I'll

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1 give them to the court to add is that part of our  
2 resolution, that we're hopefully going to work on,  
3 talks about contentious -- talks about being motivated  
4 by competitive reasons, public controversy rather than  
5 environmental reasons and a direct, casual relationship  
6 between the two projects, and I wanted to make sure  
7 that we know that those types of relationships that  
8 breakdown between a company and a jurisdiction are  
9 usually two sided. I mean, there's usually two pieces  
10 to a disagreement, not just one, and as I told  
11 Mr. Dixon -- Supervisor Dixon, who I happen to think is  
12 a very honorable man. I dealt with him many years ago,  
13 and I know he's worked pretty hard to come to some  
14 resolution on this. I was involved in some of those  
15 discussions a long, long time ago and pretty aware of  
16 how sides perceive issues, and have had a little bit of  
17 problem with pieces of this thing, as I made pretty  
18 clear in about a one-hour briefing with the mayor and  
19 Supervisor Dixon. But I want them in the record so  
20 that if one were to draw a conclusion based on whatever  
21 action is taken, that both sides of this disagreement  
22 be documented, that there is an adversarial  
23 relationship from both sides.

24 I think that's pretty critical to the  
25 process.

26 MS. TOBIAS: I'd like to put some

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1 information before the Board and on the record, so if I  
2 have your indulgence, I'll kind of like to walk through  
3 this.

4 CHAIRMAN PENNINGTON: Go ahead, Ms. Tobias.

5 MS. TOBIAS: Thank you.

6 A couple of these are just random points  
7 addressing issues that came up in the hearing, so I'll  
8 just run through these, and then a couple are things  
9 that I'd like to be on the record.

10 Early on there was a comment made that the  
11 lead agency, the City of Arcata, was not here today.  
12 The City of Arcata is the lead agency for this project.  
13 I can't recall in the last four and a half years that  
14 we've ever had a lead agency come to the meetings. I  
15 just want to make it clear that I don't think that  
16 that's a normal thing, to have a lead agency appear at  
17 a responsible agency meeting.

18 Also, it sounded like it was suggested that  
19 the City had asked us to take over the responsibility  
20 of doing an addendum, and I want to make it clear that  
21 it was the legal office's suggestion to do an addendum  
22 so that the Board was very clear about what the exact  
23 project was before you, and I suggested those reasons,  
24 and I think George went through them too, and the  
25 reasons that we were doing the addendum is because  
26 there was a slightly ambiguous project description.



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1 There was a negative declaration, but there was also a  
2 public meeting in which the City basically kind of came  
3 to terms with the project, and so, basically, I  
4 don't -- and, in fact, I don't think the City initially  
5 was interested in the idea of us doing an addendum. So  
6 I wanted to make it clear the idea of doing an addendum  
7 came from the staff.

8               Second, I want to make clear on the addendum  
9 that as far as we are concerned, the addendum does not  
10 make any changes in the project. As I said, it  
11 clarifies a project description, which was ambiguous,  
12 and I think that this is a fairly unusual step for a  
13 response agency to take, but I felt that it was  
14 necessary to put it before the Board to obtain a clear  
15 and finite project description.

16               And I also would like to say that in any  
17 case, I think scoping down a project including such  
18 suggestions -- or including such decisions as deleting  
19 self-haul, for example, is often considered to be a  
20 mitigation of potential impacts, which often occurs in  
21 a city council meeting and would not affect the  
22 validity of the declaration itself.

23               The addendum also clarifies some inartful  
24 drafting of the project description, including the  
25 mention of the rail haul, which basically appears that  
26 that was a -- a potentially future part of this

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1 project, but not a part of this particular project.

2 So, again, I don't see this as a change in the project,  
3 But a clarification of what is analyzed in the negative  
4 declaration.

5           There's also been an attempt to characterize  
6 the air quality information as new information. The  
7 standard for new information in guidelines  
8 Section 15162, little A, 3, for triggering an new  
9 EIR -- and I'd like to make sure that this is read into  
10 the record -- is "New information of substantial  
11 importance, which was not known and could not have been  
12 known with the exercise of reasonable diligence at the  
13 time the negative declaration was adopted."

14           The truck traffic was always a part of this  
15 project, and I think that it could be basically  
16 suggested, if you will, that this air quality  
17 information that was presented to this responsible  
18 agency should have most appropriately been presented to  
19 the lead agency at the time they made a decision so  
20 that they could deal with it at that time.

21           As far as the substantial evidence in the  
22 record as to air quality, it was suggested that there  
23 was no information on the other side of the record,  
24 that all the information that has been provided today  
25 is the only substantial evidence in the record before  
26 you, but I do want to make clear, the Air Quality

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1 Management District has reviewed this information.  
2 They reviewed it, the project, at the time that the  
3 negative declaration was completed. They reviewed the  
4 information that was submitted earlier in the week to  
5 Board members, submitted that September 17th letter,  
6 and then just last night analyzed the color chart,  
7 which I think is entitled, "Particulate Emissions,"  
8 which was information contributed at the last minute,  
9 and that we as a responsible agency can rely on  
10 District staff as our experts.

11 In addition to that, it was also mentioned  
12 that 15064-H, I think, basically says that when there's  
13 a disagreement among experts that the lead agency must  
14 do an EIR. This particular section is actually  
15 directed towards lead agencies, and it pertains to the  
16 identification of the significance of a particular  
17 impact when the agency is doing an EIR. So I don't  
18 think that it's particularly applicable to the  
19 responsible agency, which is what we're doing at this  
20 time.

21 Then I'd last like to bring up information  
22 on the conformance finding clarification and clarify  
23 the meaning of PRC, Section 5001.

24 I believe, as Mr. Sweetser stated, that in  
25 order to comply with this statute on conformance  
26 findings, the facility permit and RSI should prohibit

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1 any diversion at the facility. In fact, the statute by  
2 its own terms would allow this facility to have up to  
3 5 percent recovery without being subject to its  
4 provisions.

5 And I think that's the end of what I would  
6 offer on that. Let me see if there's anything else.

7 I think that the Board today, if it decides  
8 to adopt this addendum, is acting with an abundance of  
9 caution by being very clear about the scope of the  
10 project that they're approving.

11 Thank you.

12 CHAIRMAN PENNINGTON: Thank you, Ms. Tobias.

13 Now statements from Board members.

14 MEMBER EATON: I'm just trying to find my  
15 notes, so if someone else wants to go ahead, that would  
16 be great.

17 CHAIRMAN PENNINGTON: Are you ready?

18 MEMBER FRAZEE: Okay. Certainly.

19 CHAIRMAN PENNINGTON: Okay. Mr. Frazee.

20 MEMBER FRAZEE: Board members and public,  
21 it's clear that there is a way of avoiding all of this  
22 problem that we're faced with today, and that's for the  
23 people of Humboldt County to stop producing garbage,  
24 and that would solve our problems, and that's not going  
25 to be the case, although Humboldt County has done an  
26 exemplary job of recycling, of reducing their output of



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1 garbage, but the fact is, they're still even with  
2 achieving the goals. They're still going to be  
3 50 percent of what there was in 1990 in the way of  
4 needs for disposal. So we're faced with that fact of  
5 having to find some means of disposing of that amount  
6 of solid waste.

7           The issue that comes before us that --  
8 really the crux of the issue is the adequacy of the  
9 EIR, and I'd just like to remind everyone that CEQA  
10 covers a lot of areas besides air quality, and, in  
11 fact, land use and conversion of land is far more  
12 important in my mind than the air quality aspects of a  
13 particular permit. In this case you have a site that,  
14 I guess, could be classified as already degraded. It's  
15 already in an industrial use, so it already has truck  
16 traffic, already does not have any floor existing on it  
17 except maybe the aforementioned rats.

18           So those issues, I think, are all -- all can  
19 be set aside. So that brings us only to the air  
20 quality argument.

21           I listened with a great deal of attention to  
22 the case brought by Norcal and by their experts, and I  
23 certainly take some credence and would not question the  
24 ability of their experts to analyze this situation, but  
25 I think that a lot was left unsaid in their analysis.  
26 I think it was a one-sided analysis. I can think --

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1 and I tried to raise the issue at the time -- that  
2 there are a great many other offsets that take place.  
3 They only analyze it from the new generation of  
4 pollutants and did not take into consideration that the  
5 space occupied by North Coast Hardwoods obviously  
6 generated a fair amount of particulate matter. The  
7 trucks involved with North Coast Hardwoods, which  
8 apparently if this site is going to be used for some  
9 other purpose will not be operating, the offset of not  
10 going to the existing landfill, and all those  
11 considerations really bring into question the  
12 objectiveness of the report that was produced, and  
13 given to us really here at the last minute. That  
14 information should have been presented to the local  
15 agency at the time they held their public hearings on  
16 the EIR. If it was important, that was the appropriate  
17 time to do it, and I think that not only is the  
18 motivation questionable, but the validity of the  
19 information, I would have to take into consideration.

20 I am prepared to vote for the addendum. I  
21 think that's appropriate. As counsel has indicated, it  
22 is an appropriate step for this Board to take, and  
23 my -- I do have some lack of comfort level with some of  
24 the wording of the addendum, and I think we'll hear  
25 more of that from Board Member Jones, and I think that  
26 it says far more than is necessary, and perhaps if we

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1     could work on that aspect of it, I would be prepared  
2     then to move adoption of the addendum.

3             That completes my --

4             CHAIRMAN PENNINGTON:   Okay.   Thank you.

5             Mr. Eaton, are you ready, or Mr. Jones?

6             MEMBER EATON:   First off, I would like to  
7     thank each and every one of the individuals who took  
8     the time to come down here to Sacramento and/or to  
9     write or phone.   You find, having been my short term on  
10    the Board, that rarely do you see such an effort to  
11    kind of provide information to a decision making body,  
12    and while that may provide little consolation in terms  
13    of the ultimate vote, I think the one thing that you  
14    should not take away from here is the fact that this  
15    kind of information is absolutely essential to the  
16    decision making process in that the information that  
17    was provided, I think, only goes to point out that how  
18    much time and effort needs to be devoted to issues  
19    effecting any community.

20            And having said that, I think there's a  
21    couple of other things that I'd like to kind of say  
22    today just about pretty much the process.   This is  
23    probably the toughest vote that I've had to take thus  
24    far, and I don't shy away from it.   What I do believe,  
25    however, is that when I first came to this Board, one  
26    of the things that impressed me the most was how

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1 willing an agency such as this was willing to work with  
2 the constituents who do business with this Board, and I  
3 think four the first five or six times that I heard it,  
4 I said, "Sure. Sure. Sure. I don't understand what  
5 you mean," and then I saw the workshops in place. I  
6 saw the fact that the staff took extra time to go and  
7 work with individuals who may not have got it right the  
8 first time, but the ultimate goal, and never to lose  
9 site of, as I soon learned, was the fact that you try  
10 to protect the public, and at the same time you try and  
11 do what you believe is right when casting a vote.

12           And along those lines I think a couple of  
13 weeks ago or a week ago -- I can't remember. I've been  
14 in so many cities since that last time -- is we came  
15 here, and we did do just as we had done with any other  
16 entity, public or private, and that was to give them  
17 some direction and to give staff some direction with  
18 regard to what we thought would meet our requirements,  
19 namely the five things that were listed: The location,  
20 clarifying the project description, identifying the  
21 assessor's parcel, providing documentation of transport  
22 by truck, a plan to work with self-haul as well as  
23 limiting the CEQA analysis only for this particular  
24 project. I think when you make those kinds of  
25 commitments, that if an entity is willing to meet the  
26 those standards, that you ought not to try and change



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1 the rules of the game at a another time because  
2 otherwise it's a neverending game, and I think at some  
3 point the integrity of the process has to withstand all  
4 the other kinds of onslaughts that can take place.

5 And for that reason, I, too, would share  
6 Mr. Frazee's opinion that addendum should be adopted.

7 I also believe that, while I would like to  
8 forewarn that this Board will not be hesitant to look  
9 behind documents that come before, whether it be CEQA  
10 or any other documents, that in this case we have to be  
11 very, very careful about what slippery slope you're  
12 going down and looking behind documents for whatever  
13 reason they might be, because you, too, could be on the  
14 other side of that. I have friends on both sides,  
15 probably more friends on the side of the opponents than  
16 the proponents, but I feel in good conscious that I  
17 have given the testimony, the legal opinions that we've  
18 received publicly here from our counsel, which I  
19 greatly appreciate, that I, too, would recommend the  
20 adoption of the addendum at this time.

21 CHAIRMAN PENNINGTON: Mr. Jones.

22 MEMBER JONES: This is -- this obviously has  
23 been a tough one for me. I've spent a lot of time with  
24 the people from Humboldt talking about this issue. One  
25 of my biggest issues was the self-haul issue, and the  
26 fact that the project had changed and needed to be

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1 addressed.

2 I also find that sitting on this Board we  
3 learn about CEQA processes and things like that, even  
4 though I've lived through them for an awful lot of  
5 years. It seems like the attorneys always come up with  
6 what is legal, what needs to be done or doesn't need to  
7 be done, what you have an option to look at, waht you  
8 don't have an option to look at.

9 Jess Huff used to say, "We have a very small  
10 piece that we deal with here, and we have to make sure  
11 that we stay within that area."

12 You know, it is clear to me that the public  
13 health and safety is our number one priority, and I  
14 voiced that opinion to the elected officials from  
15 Humboldt County, and we talked about the number  
16 conversions and the fact that they were wrong, and  
17 they're working on trying to make sure that that part  
18 is put place.

19 Mr. Eaton said we gave direction at this  
20 Board two weeks ago, or whatever it was, to make sure  
21 to deal with those issues. We didn't want to see this  
22 until those things were dealt with. I turn this around  
23 a little bit to looking at projects that have gone  
24 through the local process, and in some cases have taken  
25 eight and ten years going through the local process,  
26 where permits have, because of conditional use permits,

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1 because of whatever, have taken eight years, six years.  
2 Some of those were Norcal's. Some of those were other  
3 people's. I think Eagle Mountain is only working on  
4 about its 12th year, and that's still hung up in the  
5 EIR, or how a judge is interpreting that EIR, and when  
6 we have those kinds of items in front of us, and the  
7 people come forward and they've had a chance to voice  
8 their opinion at the local level, and they have those  
9 local decision makers who have either changed the  
10 project or voted one way or another after hearing all  
11 that public testimony, and then its last step is here,  
12 and those same people that have been part of the  
13 process, even though they never heard the answer they  
14 wanted, come in front of us and say, you know, "We  
15 didn't like the we heard, so we want to hear again." I  
16 always object to that. That is something I dismiss in  
17 a heartbeat, because it's not fair to the local  
18 process. The local process, those local decision  
19 makers have made their choices and a permit gets in  
20 front of us, and I think that's how I view looking  
21 behind CEQA. You know, at some point has the local  
22 decision makers had the opportunity to look at the  
23 evidence? And the air quality issues that came up  
24 today -- or came up two weeks ago, have been addressed  
25 by the local Air Quality District. They were brought  
26 up as part of the local CEQA, or the local negative

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1 dec, in the hearing -- to what extent, I don't know. I  
2 wasn't there. I don't know. I understand by reading  
3 the record that our attorney said that it had been  
4 discussed. So it is a -- the policies that we do hear  
5 also, I think, have to, you know, kind of cut both ways  
6 that at some point you have to rely on the local  
7 process.

8                   And while I absolutely do not agree with a  
9 lot of the language in the resolution, I do agree with  
10 the addendum, and I'm going to -- if a motion is made  
11 to accept the addendum that will be one motion, because  
12 we've got to work on the resolution. I believe in  
13 fairness from documents, and while I think people think  
14 at it's fair, I think we need to tweak these words to  
15 not paint a picture that we might not necessarily want  
16 to paint. I don't know what that's going to take. I'm  
17 not an attorney -- thank God -- but that's where I'm  
18 coming from.

19                   CHAIRMAN PENNINGTON: Well, I don't have a  
20 long speech because I don't ever make long speeches,  
21 but I just want to thank all of the people who came and  
22 presented your case to us. I think it's extremely  
23 helpful for us to be as well informed as we can when we  
24 do have to make these kinds of difficult decisions.  
25 There's always some people go away feeling you've lost.  
26 I don't think you should feel that way. I think our



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1    democracy serves well to all of us to participate in  
2    it.  I want to thank that.  I want to thank the staff  
3    for their efforts on this.  It's been a major  
4    undertaking for you all.  Ms. Nauman is fairly new with  
5    us.  I think you've done an excellent job in trying to  
6    bring together the document that is something that  
7    protects the health and safety better.  I want to thank  
8    Katherine for her diligence on this.  So we'll move  
9    forward.

10                   Do we need to have the resolution ready, or  
11    do you want to take up the addendum now?

12                   MS. TOBIAS:  I think what you should do is  
13    take up the addendum; vote on it.  If you have comments  
14    on the resolution, we can do that, and we can basically  
15    memorialize that and come back in another part of your  
16    meeting today and come back with that rewording.  And  
17    then you'll want to take up your permit.

18                   CHAIRMAN PENNINGTON:  And then after we take  
19    up the addendum, we'll take up the permit; is that  
20    right?

21                   MS. TOBIAS:  Yes.

22                   MEMBER FRAZEE:  Mr. Chairman?

23                   CHAIRMAN PENNINGTON:  Yes.

24                   MEMBER FRAZEE:  The addendum, adoption of  
25    the addendum is in the form of a resolution.

26                   MS. TOBIAS:  What you can do is do a motion  
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1 to basically approve the addendum subject to it. I do  
2 have some rewording possibilities right now if you'd  
3 like to look at them and see if --

4 MEMBER FRAZEE: Well, I was going to take a  
5 shot at amending the resolution verbally, but if you  
6 have something.

7 MS. TOBIAS: I have something. These are --  
8 we have enough copies right now for you, and she can  
9 basically get more for the back of the room. I  
10 apologize, but we just basically got these done.

11 What I will do is walk through them with  
12 everybody so that the public can hear. The Board can  
13 follow me and I'll do it slowly so the public can hear  
14 it.

15 Are you ready? I'm on the second page.

16 CHAIRMAN PENNINGTON: Let me just make it  
17 clear to the public that we will have copies of this in  
18 a minute or two for you.

19 MEMBER JONES: And it may change some more.  
20 Who knows.

21 CHAIRMAN PENNINGTON: Okay.

22 MS. TOBIAS: On the second page -- this is  
23 starting on the third page, I think, as you have it,  
24 starting with the "whereas" that says, "The whereas to  
25 decision to offer self-haul service." Are you with me?

26 So instead of saying, "The decision to stay  
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1 open or close the facility at City Garbage," it would  
2 say, "The decision to offer self-haul service at any  
3 privately operated facility would be driven by many  
4 reasons." So that's the first change.

5 In the next whereas in the fourth line,  
6 again the replacement of the words, "City Garbage  
7 closes its transfer station," it would say, "Whether or  
8 not self-haul facilities are closed on October 1st."

9 MEMBER JONES: Wait. Wait. Where are you?

10 MS. TOBIAS: I'm in the second whereas on  
11 page 3.

12 MEMBER JONES: I'm sorry. Will you  
13 repeat --

14 MS. TOBIAS: Third line --

15 MEMBER JONES: -- the first one?

16 MS. TOBIAS: Sorry. Yes.

17 MEMBER JONES: Really?

18 MS. TOBIAS: Well, these are just my  
19 suggestions.

20 MEMBER JONES: All right.

21 MS. TOBIAS: So were you with me on the  
22 second one, Mr. Jones?

23 MEMBER JONES: Yes.

24 MS. TOBIAS: Okay. On the third "whereas,"  
25 on the fifth line down, it says, "City of Eureka unless  
26 done so for competitive and revengeful reasons among

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1 all parties concerned," as opposed -- so it adds the  
2 words "among all parties concerned."

3 And then the fourth whereas on that page  
4 that deals with air quality issues, I basically add to  
5 that, and it says, "Concerns over potential air quality  
6 issues, which could have been and should have been  
7 raised to the city at their city council meeting for  
8 consideration, have been raised to the Board, but the  
9 regional air pollution control officer of the North  
10 Coast Unified Air Quality Management District has  
11 adequately addressed these concerns in a letter dated  
12 September 17th, 1998, finding that the information does  
13 not change the original finding, that the concerns do  
14 not rise to a level of significance."

15 Now, what I can also do with you, at your  
16 pleasure, is walk you through the whole resolution and  
17 basically explain why these provisions are in here, or  
18 take any comments that you might have, and if you have  
19 other comments, I'm happy to go back and work on this  
20 as you continue with your Board agenda and bring them  
21 back.

22 CHAIRMAN PENNINGTON: You have additional  
23 comments from, Mr. Frazee?

24 MEMBER FRAZEE: Well, understanding  
25 Counsel's admonition about the necessity for this being  
26 a complete document and stating "reasons to their



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1 ultimate," I for one would be more comfortable with  
2 deleting five whereases, and those are the bottom two  
3 on page 2 and first three on page 3, and you know, I  
4 can see the need for those in the future, but they just  
5 seem irrelevant to the purpose at hand, and that's  
6 adopting the addendum. You know, I'll allow you to  
7 defend your reasons for having them in there.

8 MS. TOBIAS: Without going into closed  
9 sessions for reasons of litigation, I'd have to say  
10 that I think that those provisions basically deal with  
11 the concerns that have been raised with self-haul and  
12 the concerns of those are a separate project under CEQA  
13 not related to this project. I could certainly try to  
14 condense it, but I feel like we still need to address  
15 that issue. I think the Board as a responsible agency,  
16 needs to show that they understand that there are  
17 not -- or there is not at this time substantial  
18 evidence in the record that shows that there are  
19 environmental concerns having to do with the provision  
20 of self-haul in this area that are related to the  
21 provision or the new project of the transfer station.  
22 And if you'd like to discuss this some more, I'd really  
23 rather do it in closed session.

24 CHAIRMAN PENNINGTON: You all right? You  
25 want it condensed?

26 MEMBER FRAZEE: What?

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1                   CHAIRMAN PENNINGTON:  You want her to try to  
2   condense?

3                   MEMBER FRAZEE:  Well, let's hear Mr. Jones  
4   on this.

5                   MEMBER JONES:  Actually, I kind of liked  
6   Mr. Frazee's offer.  I was willing -- you know, I was  
7   trying to work with these things, but I think our  
8   record's pretty clear if you look at the whole  
9   document.  We talked quite a bit about self-haul.  We  
10   talked about the acknowledgement that the numbers were  
11   wrong and that they needed to deal with it, and one of  
12   the conditions in the conditional use permit is that  
13   they hold a public hearing to discussion the self-haul  
14   options in that county.  You know, determining who said  
15   who to what in what meeting may establish that the  
16   self-haul issue came up.

17                  MS. TOBIAS:  Let me see how much I can  
18   explain.  The first one is basically pointing out that  
19   the City of Arcata, which I think is important -- this  
20   one's not so much talking about anything of ours, but  
21   it's talking about the fact that this issue of  
22   self-haul, as far as the City of Arcata is concerned,  
23   they were assured -- the question was specifically  
24   asked and answered that self-haul would continue to be  
25   available at this site, so the city had no opportunity  
26   to deal with the fact that later it was announced that

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1     that would not be available.

2                     I think that that's partially a concern for  
3     the city --

4                     MEMBER JONES:   But isn't that why we're  
5     doing an addendum, because the issue came up, and we  
6     asked them to do an addendum dealing with the  
7     self-haul.   So I think we've addressed that issue in  
8     the addendum.

9                     MS. TOBIAS:   The addendum basically offers  
10    information about where the self-haul will do.   It does  
11    not change the project at all.   I think it's mostly for  
12    purposes of CEQA that we're basically trying to deal  
13    with when information was offered and what kind of  
14    information was offered at the time.

15                    The second whereas is linked to the first  
16    whereas, and that merely says that that information  
17    came after the city counsel meeting that they didn't  
18    have the opportunity to address this.

19                    The third one --

20                    MEMBER FRAZEE:   On that point, if I could,  
21    you say that that point came up after the city counsel  
22    meeting.   Wasn't that a decision of the city council to  
23    eliminate self-haul?   Wasn't that one of the issues  
24    that was raised?

25                    MS. TOBIAS:   They did decide to eliminate  
26    self-haul --

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1                   MEMBER FRAZEE:  So wasn't that issue debated  
2   at the city council.

3                   MS. TOBIAS:  Yes, it was.  And in the  
4   minutes, what it basically does is -- and the reason  
5   that I've repeated it here, is that one of the council  
6   people specifically asked before they eliminated the  
7   self-haul whether or not self-haul would continue to be  
8   had available at that site in the city of Eureka, and  
9   the owner of the site assured her that it would be  
10  available.  So when they made that decision, they were  
11  on the basis that self-haul would be available at that  
12  site, and that's what I'm basically establishing with  
13  those whereases.

14                  The third one is basically trying to put  
15  forward the finding, if you will, that the -- that  
16  there's not an environmental basis or a direct causal  
17  relationship between the two projects, and that's  
18  really what the other -- those three go to, is trying  
19  to show that there's a different motivation for closing  
20  the self-haul or the threat or the possibility of  
21  self-haul not being available, that the Authority which  
22  has the overall responsibility for waste disposal in  
23  this county is going to address this issue regardless  
24  of whether the self-haul is opened or closed.

25                  And then the last one of the ones you're  
26  talking about is really the important one, I guess



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1   you'd say, for saying that there's not a reasonably  
2   foreseeable consequence that the provision of the  
3   transfer station the city of Arcata would necessarily  
4   cause the closure of a self-haul facility, and that we  
5   don't have -- that a response agency doesn't have to  
6   address the reasons of competition as opposed to where  
7   there's a true relationship between the two projects  
8   and an environmental -- potential environmental impact.

9                   MEMBER JONES:  You know, when you go to the  
10   whereas at the top of the page, which Mr. Frazee had  
11   suggested we take out, I strongly suggest we take it  
12   out because we've made an assumption that it can only  
13   be one of a couple of different reasons, competitive  
14   reasons, public controversy, rather than environmental  
15   reasons, and I think it's important that people  
16   understand that it takes a certain amount of flow to  
17   run a facility.  You know, I mean, if you have a  
18   facility that costs \$1 million and you only get one ton  
19   of garbage in, then you've got to charge \$1 million,  
20   because that's the cost to operate.  So I think we make  
21   an assumption that we don't have -- you know, that we  
22   don't need to make here, because it could be for  
23   reasons other than these, but it could be the fact that  
24   they can't afford to keep it open without the flow of  
25   garbage.  I don't want to presume that we know what's  
26   in their head.  You know, listing two of the potentials

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1 and not had listing all of them doesn't make any sense  
2 to me.

3 I agree with Mr. Frazee. As far as I'm  
4 concerned, I don't think we -- I don't care if we have  
5 to go into closed session to hammer this thing out or  
6 what we have to do, but, you know, we're making some  
7 assumptions that I'm not sure that we're equipped to  
8 make..

9 MR. CHANDLER: Perhaps from my perspective,  
10 what I'd like to kick around a little bit, do you want  
11 to consider taking up a vote on the addendum, 'cause if  
12 there is support for the addendum, then I think what  
13 you're getting is the best advice you can get from your  
14 counsel as to what tools you want in to support that  
15 addendum with when it comes to the supporting  
16 documentation and the resolution. As you darn well  
17 know, this resolution's going to read entirely  
18 differently if we choose as a Board to not support this  
19 addendum. And so maybe what we need to deal first with  
20 is, what is threshold position of the Board on the  
21 addendum, and then we can craft the resolution to put  
22 ourselves in the strongest position that we feel we  
23 need to be in around the addendum.

24 I feel like on one hand we we're trying to  
25 take a tact, potentially, to support the addendum, and  
26 then water down our arguments and the resolution around

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1     why -- what was the foundation for that decision, and  
2     perhaps that does need to be discussed in closed  
3     session around, have we go too far, or have we used the  
4     wrong language? But I think we have to try to put  
5     oursevles in the strongest position, whichever way we  
6     choose to go on the addendum.

7                   CHAIRMAN PENNINGTON: Without taking a  
8     formal vote, I think we've pretty well indicated --  
9     three Board members have already indicated that they  
10    would support the addendum. I'm going to support the  
11    addendum if we could get the resolution straightened  
12    out.

13                  MS. TOBIAS: What I could see doing is  
14    taking out the first two whereases that you talked  
15    about. Those are basically public record anyway. It's  
16    just reiterating the minutes of the meeting and other  
17    information about when the information was revealed on  
18    the self-haul is a matter of record. So we can take  
19    those out.

20                  The whereas that talks about the Authority  
21    and what they're going to do, I would like that to stay  
22    in, although I have a letter from the Authority that  
23    says that, so I think it makes it a more complete  
24    finding for if Board that it's in there, but I do have  
25    a letter that already promises to do that.

26                  As for the other two, then, I think that it  
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1 would be sufficient to leave the last one in. I think  
2 the one before -- it's so hard when these things are  
3 not numbered, but this is the way we do our  
4 resolutions -- the first one on page 3, which is  
5 talking about the fact that it's driven by many  
6 reasons, I think is actually summed up in the third one  
7 on that page that basically says that there's not a  
8 causal relationship, that it's not a reasonably  
9 foreseeable consequence, et cetera. So if you would  
10 like to leave in the one that has the Authority  
11 promising to hold the hearing and the one that I think  
12 basically wraps up, you know, what my reasons are for  
13 that, how would that be?

14 MEMBER FRAZEE: I would agree with that, but  
15 I'm still troubled by the sentence that reads, "Unless  
16 done so for competitive and revengeful reasons." I'm  
17 just troubled by that phrasing.

18 MS. TOBIAS: I can try to work on that  
19 phrase, but do you have a suggestion?

20 MEMBER EATON: Perhaps I can try to do it  
21 procedurally here.

22 In echoing the chairman's comments, if I  
23 hear him correctly is that, one, procedurely we take up  
24 the addendum, just the addendum, not the whereases, but  
25 I have an addendum here dated September 14th, 1998,  
26 state clearinghouse number 98052077. We vote on that.



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1 That's just a clear addendum, and then perhaps recess  
2 the hearing so that those who are concerned with  
3 regards to the resolution, if there be a resolution,  
4 and I don't, you know, say one way or the other, can  
5 work on some language, we can then continue on our  
6 other regular Board business with the other agenda  
7 items, and then when there's time to think about it,  
8 both Counsel and others can be brought back the  
9 resolution for further review today and either be voted  
10 up or down or amended at this point, and therefore we  
11 can kind of continue our business.

12 I think that procedure gives us the  
13 advantage of a couple of things. First and foremost,  
14 we're not trying to do things in a fashion which, one,  
15 we may later regret. I think only too clear that the  
16 record that we had before us in trying to decide this  
17 issue was somewhat done in haste to some degree, and  
18 therefore, caused us problems as decision makers.

19 So perhaps if we just agree with the  
20 language of the addendum, we adopt that, and then allow  
21 those to perhaps work on some language of resolution to  
22 bring this back to us in a short time and then see if  
23 that meets with our approval.

24 Is that procedurally -- we would have two  
25 procedures --

26 CHAIRMAN PENNINGTON: I think procedurally,  
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1 Mr. Frazee -- I think Mr. Frazee would like to get this  
2 resolution done.

3 MEMBER EATON: That's fine.

4 MEMBER FRAZEE: Let me say, I think  
5 procedurally it's highly irregular to adopt a title  
6 without the body of the text of the resolution. I know  
7 it's done. We do it. We modify them, and we give  
8 instructions on modifying them, but just to adopt the  
9 title alone.

10 So let me take a run at this that we adopt  
11 resolution 98316 with the exception of those  
12 paragraphs -- the last two paragraphs on page 2 and the  
13 first three on page 3, with the understanding that  
14 those particular paragraphs, and those alone, will be  
15 modified to suit the concerns of the Board.

16 So that's gives us the text, the body, the  
17 adoption of the addendum and still leaves some blanks  
18 to be filled in.

19 MS. TOBIAS: I think that's okay. I also,  
20 as I say, I can take out -- of the five we're talking  
21 about, I'm willing to take out the first three, leave  
22 in four and five and modify and look at modifying the  
23 words "competitive and revengeful reasons."

24 MEMBER FRAZEE: Well, that would make me  
25 happy, too.

26 MS. TOBIAS: That's what we're here for.

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1                   CHAIRMAN PENNINGTON:  So you were going  
2   to --  
3                   MS. TOBIAS:  That's acceptable to me.  
4                   MEMBER EATON:  I think, Mr. Frazee, that  
5   that's probably the better way to go.  
6                   MEMBER FRAZEE:  Get as much of it as we can,  
7   and then --  
8                   MEMBER EATON:  You suggested you want to  
9   fill in the blanks later?  
10                  MEMBER FRAZEE:  -- with the understanding of  
11   just the modification of --  
12                  MS. TOBIAS:  That language.  
13                  MEMBER FRAZEE:  -- on four and five.  
14                  MS. TOBIAS:  I would suggest that four stay  
15   in as is --  
16                  MEMBER FRAZEE:  Okay.  
17                  MS. TOBIAS:  -- because that's really the  
18   one just talking about what the Authority's --  
19                  MEMBER FRAZEE:  Take out three and five --  
20                  MS. TOBIAS:  I'm talking about --  
21                  MEMBER FRAZEE:  -- three and modify five.  
22                  MS. TOBIAS:  I'm talking about the bottom of  
23   page 2, the last two whereases.  
24                  MEMBER FRAZEE:  Okay.  One, two, and  
25   three --  
26                  MS. TOBIAS:  One, two, and three.  The

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1 fourth --

2 MEMBER FRAZEE: -- and modify five.

3 MS. TOBIAS: -- one would stay in as is, and  
4 five I will attempt to modify that wording, "competitive  
5 and revengeful," but I may come back to you and tell  
6 you that I need that, and I'd bring that back for your  
7 consideration today.

8 MEMBER FRAZEE: So then my --

9 MEMBER EATON: Nonenvironmental sounds like  
10 a good, short term for eliminating those.

11 MS. TOBIAS: I'll take that under  
12 consideration, Mr. Eaton.

13 MEMBER FRAZEE: My motion then would be to  
14 adopt Resolution 98316 as presented in a document that  
15 I now have identified as Resolution 98316, Agenda  
16 Item 11, September 17th, Numbered 2, because we had an  
17 earlier version of it, and with the understanding then  
18 that the bottom two paragraphs on page 2 --

19 CHAIRMAN PENNINGTON: Maybe if it would help  
20 you, I went through and numbered these paragraphs. It  
21 would be paragraph 12, 13, 14 would be deleted --

22 MEMBER FRAZEE: Yes.

23 CHAIRMAN PENNINGTON: -- and paragraph 15  
24 would stay in, and 16 would be modified.

25 MEMBER FRAZEE: Okay. That's my motion.

26 MS. TOBIAS: Also, I have been informed that  
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1 the copies are on the back table at this time.

2 CHAIRMAN PENNINGTON: Okay. Copies are back  
3 there (indicating).

4 I will second your motion, Mr. Frazee.

5 Are you clear on the motion.

6 THE SECRETARY: Sure am.

7 CHAIRMAN PENNINGTON: Is everybody clear on  
8 the motion?

9 On my numbering system it is 12 and 13 and  
10 14.

11 MEMBER EATON: Right, got you.

12 CHAIRMAN PENNINGTON: Okay. It's been moved  
13 and seconded that we adopt Resolution 98316 of  
14 September 17th, second version with the deletion of  
15 paragraphs 12, 13, 14 and a modification to paragraph  
16 16.

17 MEMBER JONES: Mr. Chairman, can I ask a  
18 question?

19 CHAIRMAN PENNINGTON: Certainly.

20 MR. JONES: If this comes back and we're  
21 still not satisfied, what's your next step?

22 MS. TOBIAS: Fire counsel.

23 MEMBER JONES: Fire counsel, she said.

24 Okay.

25 CHAIRMAN PENNINGTON: We'll get our public  
26 affairs person.

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1                   MEMBER EATON: I also believe in giving the  
2 Board an additional option. The other option would be  
3 for you to go to law school.

4                   MEMBER JONES: That's not an option.

5                   CHAIRMAN PENNINGTON: Okay. It's been moved  
6 and seconded. Will the secretary call the roll?

7                   THE SECRETARY: Board Member Eaton.

8                   MEMBER EATON: Aye.

9                   THE SECRETARY: Frazee.

10                  MEMBER FRAZEE: Aye.

11                  THE SECRETARY: Jones.

12                  MEMBER JONES: Aye.

13                  THE SECRETARY: Chairman Pennington.

14                  CHAIRMAN PENNINGTON: Aye.

15                  That motion carries.

16                  Do we want to take up the matter of the  
17 permit now, or do you want to wait until they come  
18 back?

19                  MEMBER FRAZEE: Take the permit now.

20                  CHAIRMAN PENNINGTON: Take the permit now.  
21 Okay.

22                  I'll entertain a motion on the permit.

23                  MEMBER FRAZEE: Mr. Chairman, I would move  
24 the adoption of Resolution 98317, the approval of a new  
25 solid waste permit for Humboldt County Waste Management  
26 Authority, transfer station, Humboldt County.

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1                   MEMBER EATON: I'll second the motion.

2                   CHAIRMAN PENNINGTON: It's been moved and  
3 seconded to adopt Resolution 98317. Would the  
4 secretary call the roll?

5                   MEMBER FRAZEE: I just --

6                   CHAIRMAN PENNINGTON: Certainly.

7                   MEMBER FRAZEE: -- under discussion on this  
8 item, Mr. Chairman, I think other members of the Board  
9 have said this is not an easy decision to make. What  
10 weighs on my mind, and what triggered my decision was  
11 the fact that the alternative was to find some way of  
12 sending this back or to go to court and sue and force a  
13 new EIR, and I'm wondering what would be achieved by  
14 that, because it gets back to what I mentioned before,  
15 only the air quality issue, and what can you do to  
16 mitigate the air quality aspects of this project? And  
17 so all you do is go through 18 months or two years of  
18 an exercise and spending a lot of money, a lot of  
19 taxpayers money developing a new EIR that comes to the  
20 very same conclusion. The fact that they're using  
21 trucks for a back haul is already a mitigation in  
22 itself, versus one-way haul with wood chips and another  
23 set of trucks hauling trash the other way, so it just  
24 doesn't look like there are mitigating factors  
25 available that would prove anything other than this  
26 full employment act for consultants and attorneys to

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1 get to the very same conclusion that hopefully we're  
2 getting to today.

3 CHAIRMAN PENNINGTON: Thank you.

4 MEMBER JONES: Mr. Chairman?

5 CHAIRMAN PENNINGTON: Yes, Mr. Jones.

6 MEMBER JONES: When we had this item the  
7 first time, we talked about some things that I think  
8 everybody needs to remember, and that is this Board  
9 does not issue temporary solid waste facility permits.  
10 This is a permit that lasts forever. Okay? Now, the  
11 fact that they've got a conditional use permit,  
12 supposedly, that says they'll only be there for two  
13 years, maybe three, does not mean a whole lot, because  
14 this facility, if the other one does not get sited,  
15 will be the permanent facility for Humboldt County, and  
16 you need to know that what we're doing today when we  
17 take this permit up is basically understanding that  
18 this could be the permanent facility forever,  
19 irregardless of the words that have been said, the  
20 intent of the people. This is very possibly what will  
21 be the next permanent facility.

22 So my question to Katherine is, if this is  
23 the permanent facility, and if our addendum says that  
24 any new facility will require a full EIR, and all those  
25 things, if, in fact, they cannot permit or site a new  
26 facility and they plan to expand this one, will it fall



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1 under our conditions that a full EIR be done to deal  
2 with the issue, or will it just be signed off because  
3 we'll consider these to be minor changes that have  
4 occurred over a course of time?

5 MS. TOBIAS: In my opinion, the scope of  
6 this project description is very narrowly defined, so  
7 any changes at this facility above and beyond the  
8 number of trucks that we've already specified, the  
9 amount of tonnage that has been specified, will require  
10 some kind of an additional environmental review. If  
11 it's at this site, then it will be by the City of  
12 Arcata, initially as the lead agency. If it moves to a  
13 different site it would, of course, be under whomever  
14 authority is acting as the lead agency at that time,  
15 but in my opinion there's really not much that can be  
16 done other than the very current project that wouldn't  
17 trigger at least a negative declaration or mitigated  
18 negative declaration or not an EIR, and that really  
19 depends on what they do. They can't increase the truck  
20 traffic out of this facility. They can't change the  
21 tonnage. They can't do any other kind of method of  
22 disposal, such as rail haul without another  
23 discretionary decision, because this is a very limited  
24 scope, and I'm fairly confident that the parties  
25 realize that, and I think that's the reason that we  
26 were doing this addendum is to make sure that that was

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1 exactly the project description that you are acting on.

2 MEMBER JONES: I hope I'm wrong, but I would

3 not be surprised if this is the permanent facility in

4 Humboldt County just because where they propose the new

5 one is going to be pretty tough to permit, a lot

6 tougher than this one obviously.

7 CHAIRMAN PENNINGTON: Okay. Any further

8 discussion? If not, will the secretary call the roll?

9 THE SECRETARY: Board member Eaton?

10 MEMBER EATON: This resolution was 98317?

11 CHAIRMAN PENNINGTON: Correct.

12 THE SECRETARY: Yes.

13 MEMBER EATON: I believe that my copy, it

14 says, "Whereas on September 10th we adopted the

15 addendum." I think it's just a typographical error.

16 It was forwarded from the last, so under our new

17 procedures.

18 CHAIRMAN PENNINGTON: Remember, this is the

19 September 10th meeting held on the 17th.

20 MEMBER EATON: I've been on airplanes. I

21 haven't been on Air Canada like Mr. Frazee and got lost

22 like baggage, but I'm pretty close.

23 So that would just be corrected as we go on.

24 That's all.

25 CHAIRMAN PENNINGTON: We're asking for your

26 vote.

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1 THE SECRETARY: Is that an aye?  
2 MEMBER EATON: Aye.  
3 THE SECRETARY: Board member Frazee.  
4 MEMBER FRAZEE: Aye.  
5 THE SECRETARY: Jones.  
6 MEMBER JONES: Aye.  
7 THE SECRETARY: Chairman Pennington.  
8 CHAIRMAN PENNINGTON: Aye. Motion carries.  
9 We can now move on till Ms. Tobias comes to  
10 correct the --  
11 MR. SCHAUB: Thank you very much. On behalf  
12 of the Authority I want to tell the people that are  
13 here from Humboldt County that the Authority made a  
14 commitment that this be temporary transfer station, and  
15 we're damn well going to keep that commitment.  
16 CHAIRMAN PENNINGTON: Very good.  
17 Ms. Tobias will work on the resolution, and  
18 we will move on to continuing business, Agenda Item 22,  
19 Consideration of Approval of proposed ranking criteria  
20 storing process for two fiscal years, '98 and '99, Tire  
21 Recycling grant, Local Government Public Education and  
22 Amnesty Day Grants, and, two, Local Government  
23 Playground cover and surfacing grant.  
24 AGENDA ITEM NUMBER 22  
25 MS. GILDART: Good afternoon Chairman and  
26 members. I'm Martha Gildart with the Waste Prevention

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1 And Market Development division, and I'll be presenting  
2 Item 22, which is a carryover from August 13th to  
3 August 25th to September 10th to today.

4 MEMBER EATON: Sounds like a home run.

5 MS. GILDART: The last issue that had come  
6 from the Board in the 26th meeting was the discussion  
7 on political subdivision of a local government, and  
8 there is both change in the criteria, which is  
9 Number 7, where the wording now records, "Individual  
10 political subdivision has not received a Board tire  
11 grant for the fiscal years '95-6, '96-7, and '97-8."  
12 The definition that we intend to use is not included in  
13 the criteria, but has been made available, and I will  
14 read that.

15 "Definition of political subdivision in  
16 Government Code Section 12651-D includes any city, city  
17 and county, county tax, or assessment district, or  
18 other legally authorized local government entity with  
19 jurisdictional boundaries. Labor Code Section 1721  
20 defines political subdivision as including any county,  
21 city, district, public housing authority, or public  
22 agency of the state and assessment or improvement  
23 district."

24 We believe the wording in the criteria and  
25 that definition should address the issues.

26 MEMBER FRAZEE: Including school districts.



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1 MS. GILDART: Yes.

2 The intent in having such a criteria was to  
3 allow those subdivisions which had not previously  
4 applied to the Board for grants for playground mats or  
5 for amnesty days to have slightly higher ranking than  
6 they perhaps otherwise would.

7 CHAIRMAN PENNINGTON: Okay.

8 MS. GILDART: Are there any other questions  
9 or issues?

10 MEMBER EATON: Mr. Chair, since this was my  
11 item that I had some concerns about, I first and  
12 foremost want to thank the staff -- Caren and her staff  
13 for working with my staff and myself in terms of trying  
14 to get the best definition we could, as well as kind of  
15 an understanding. I think we have reached that on this  
16 matter, and I'm prepared to vote for it.

17 I would just like sort of to ask staff if in  
18 the future there is a way that as we look at some of  
19 this stuff that we at least try and gain some  
20 information about perhaps if these applicants are going  
21 to use other recycled products in their playground,  
22 whether or not that helps score well. You know, I  
23 leave that to your discretion, but that's very  
24 difficult to do because, I'm not so aware of it, but it  
25 may be a way that we can help get some additional  
26 information and data -- quantitative data with regard

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1 playground construction.

2 Having said that, I would be happy to move

3 Resolution -- and I go back. It's been awhile.

4 MS. TRGOVICH: 98-265.

5 MEMBER EATON: 98-265.

6 MEMBER JONES: I'll second it.

7 CHAIRMAN PENNINGTON: Sorry.

8 MEMBER JONES: He moved and I seconded.

9 CHAIRMAN PENNINGTON: Eaton moved and Jones

10 seconded. Will the secretary call the roll, please?

11 THE SECRETARY: Board Member Eaton.

12 MEMBER EATON: Aye.

13 THE SECRETARY: Frazee.

14 MEMBER FRAZEE: Aye.

15 THE SECRETARY: Jones.

16 MEMBER JONES: Aye.

17 THE SECRETARY: Chairman Pennington.

18 CHAIRMAN PENNINGTON: Aye. Motion carries.

19 Folks, there are quite a few people that are

20 asking for items to be moved up, and "Try to get me

21 through by 5:00 o'clock today." Listen, I'll try my

22 very best to get us through here, but if I move one

23 person up, that puts somebody else behind. I've got

24 people that were here last week who've come back. I've

25 got to stick with the agenda, and I apologize that we

26 were so long on that first item. I would like to

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1 accommodate you, but I think in fairness I've got to  
2 stick with it, because there are other people who been  
3 here, too.

4 Okay. I'm going to move to Item 6, which is  
5 contract concepts.

6 AGENDA ITEM NUMBER 6

7 CHAIRMAN PENNINGTON: Now, what we can the  
8 do here, folks, if we'd like to move this quickly, I  
9 have one speaker who would like to address us on this  
10 issue. We can hear what she has to say, and either  
11 move the item to tomorrow after we've heard, or if  
12 she'd like to come back tomorrow, or whatever she'd  
13 like to do. I know she's been sitting here since 9:30  
14 this morning, as well as everybody else.

15 So, I'd like to know if we could just --

16 MEMBER EATON: I think that's a good  
17 suggestion.

18 MEMBER JONES: That works for me.

19 CHAIRMAN PENNINGTON: Does that work for  
20 you, or would you rather come back in the morning?  
21 Okay. Fine.

22 MS. HAYNIE: I'd like to say I have caught  
23 up on my correspondence this morning. I appreciate  
24 that opportunity.

25 CHAIRMAN PENNINGTON: You want to state your  
26 name for the record.

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1                   MS. HAYNIE:  Kristen Haynie.  I represent  
2   the California Association of Professional Scientists,  
3   CAPS, the Professional Engineers in California  
4   Government, PECG, P-E-C-G, and the Association of  
5   California State Attorneys and Administrative Law  
6   Judges ACSA, A-C-S-A.

7                   Can I first start by giving this handout for  
8   the Board?  What I am having passed out is just the  
9   scope section of the classification specs for the  
10  Integrated Waste Management Specialists and the Waste  
11  Management Engineer just for your reference, because  
12  the items I'm going to be discussing on each of these  
13  contract concepts relates to that, and it may have been  
14  some time since you've read them, if ever.

15                  To begin, the reason why I'm here today is  
16  because CAPS, ACSA, and PECG are all concerned about  
17  several of the contract concepts, which I will go  
18  through item by item.  However, the reason why we're  
19  concerned about that in general is because the State  
20  has an obligation to employ state employees to do the  
21  work of the Board if that work can be done by state  
22  employees.  Not having enough staff possibly is not a  
23  reason to contract that work, and it appears, based on  
24  the limited information that is presented, and maybe as  
25  there's more information provided on each of these  
26  contract concepts, maybe some of our objections will



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1 fall away, but at this point based on the information  
2 we have, we have some serious concerns that it appears  
3 this work would be contracted out against the law.

4           There was a letter that was submitted to the  
5 Board on September 4th, I believe was in the  
6 September 10th Board Agenda Items, and I'd like to call  
7 your attention to that. Also, the letter is addressed  
8 from the California Association of Professional  
9 Scientists and Professional Engineers in California  
10 Government. We now would like to add ACSA since there  
11 is one contract concept we have learned of that we are  
12 concerned about.

13           The reason why the contracting out is a  
14 concern is, this is something that our three  
15 organizations are taking up very seriously, and we do  
16 not want to end up in any type of litigation with the  
17 Board. We've had a good relationship with the Board.  
18 We don't want to go down that route and don't want to  
19 end up doing appeals to the State Personnel Board.

20           I would also like to refer you to a Supreme  
21 Court decision that is listed in my letter. It's the  
22 Professional Engineers in California Government versus  
23 the Department of Transportation, which, again,  
24 reinforced the law from the 1930s.

25           Moving on to the contract concepts, I'll  
26 start with Concept Number 2. Okay. Just referring to

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1 the description paragraph to make it easier for  
2 everyone here, I have been informed that this type of  
3 work is done in organics waste diversion, and also  
4 recommend that state parks should be included. This is  
5 a contract concept that goes to -- to develop nonprofit  
6 organizations to develop and implement model waste  
7 diversion compost programs for tourist destinations and  
8 attractions. The Department of Parks and Recreation in  
9 the state of California has many parks and tourist  
10 attractions, so we see that as an inner agency type of  
11 work, and even working with private sector tourist  
12 attractions, we don't see the limitation of state  
13 employees to work in this capacity and particularly the  
14 scientists. I will note with each one which group of  
15 employees we're concerned about.

16               Okay. Moving on to Number 3, this --  
17 "Identify local processing capabilities and markets for  
18 those materials for the Waste Regional Action Plan."  
19 Again, we believe that this is scientist work, and it  
20 goes right into the scope of description for the  
21 Integrated Waste Management specialist. This expertise  
22 is currently available with your scientific staff.

23               Number 4. This is a continuation of a  
24 program, and it is unclear why there is a contract  
25 concept. My information is that two or three people  
26 currently run the program that are on Waste Board

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1 staff, and so we are not sure why there would be a  
2 contracting added. It seems if the contract is  
3 expanding or is a continuation, it should stay within  
4 the Board.

5 MEMBER JONES: This is Number 4?

6 MS. HAYNIE: Number 4.

7 Number 5. This is the Calmax (phonetic)  
8 program. It's a materials exchange program, which I've  
9 also been informed that scientists are coordinating  
10 this program today, and so, again, we don't understand  
11 why it would need to be contracted out.

12 Any questions so far? We've had a long day.

13 MEMBER JONES: Mr. Chairman, I have a  
14 question.

15 CHAIRMAN PENNINGTON: Go ahead.

16 MEMBER JONES: The people that you  
17 represent, do they know -- do they feel like these jobs  
18 should be done in-house?

19 MS. HAYNIE: Yes, they do.

20 MEMBER JONES: Because that's the same staff  
21 that's asking us to farm them out. So that's fine. I  
22 don't have a problem with that.

23 MS. HAYNIE: That's part of the mystery to  
24 us, sir.

25 MEMBER JONES: I don't have a problem with  
26 that. I mean, I'm just going to add up the dollars and

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1 figure out how much money we've got for grants. So I  
2 don't have any problem with this.

3 MS. HAYNIE: Some of them are managers and  
4 supervisors and others. I don't know if they're  
5 necessarily the rank and file.

6 MEMBER FRAZEE: Just a question of staff.

7 Perhaps the term "contract concepts" is a  
8 bit of a misnomer here, because I don't see anything in  
9 here that says that even though they're called a  
10 contract concept they cannot be done within house; is  
11 that correct? Just as the Calmax one is currently done  
12 in the house, there's no reason because this money is  
13 set aside that that still can't continue to be done  
14 inhouse.

15 CHAIRMAN PENNINGTON: I think, for example,  
16 this Calmax thing, the money that is being set aside in  
17 the contract concept, mostly is going for the printing  
18 of the thing; isn't that right?

19 MS. SMALL: Yes.

20 CHAIRMAN PENNINGTON: I mean, it's not going  
21 it together. It's the printing and mailing of it, and  
22 I think that's the same thing with the wrap is to buy  
23 and purchase those wrap award plaques and things like  
24 that.

25 MS. TRGOVICH: Correct. Both of those  
26 contracts have been in place for many years now. They



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1 are currently staff that work these programs. There is  
2 absolutely nothing about these concepts that would  
3 displace those staff and move them into other areas.  
4 These have been support contracts, and the Board has  
5 had these contracts, in the case of wrap, for six  
6 years, in the case of Calmax for six years.

7 MR. CHANDLER: And, Caren, what do the  
8 dollars go towards?

9 MS. TRGOVICH: The dollars go towards  
10 publication purposes, award. In the case of Calmax, it  
11 goes to listing information. It's services that we  
12 currently do not provide and have not provided here at  
13 the Board.

14 MR. CHANDLER: I think to answer  
15 Mr. Frazee's question, that we would almost have to  
16 take those on a case-by-case basis, in answer to your  
17 question directly, because each one may be printing a  
18 cost associated with maybe other attendant costs  
19 associated with it, but I think the point you're making  
20 is, it is a bit perhaps a misnomer to categorize it and  
21 have them called contract concepts, although that's the  
22 procedures we've been using here at the Board for  
23 several years.

24 MEMBER FRAZEE: And, for example, in the  
25 contract concepts, or in the Calmax, much of that goes  
26 for printing, and is that printing done by a private

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1 contractor, or by the state printing office.

2 MS. SMALL: The way those concepts are set  
3 up, they are set up to be contracts that are done  
4 outside the Board. That's why they do come in that  
5 way, and that particular contract is, if it's done by a  
6 state printing, it's not considered a contract. It's  
7 an interagency agreement.

8 MEMBER FRAZEE: I see.

9 MS. SMALL: It's a little bit different.

10 MEMBER FRAZEE: But do we have printers on  
11 our staff.

12 MS. SMALL: No, we do not.

13 MEMBER FRAZEE: Or the ability to do  
14 printing on our staff?

15 MS. SMALL: No, we don't have the ability to  
16 fulfill the requirements of this contract with  
17 equipment or materials.

18 CHAIRMAN PENNINGTON: Okay.

19 MS. HAYNIE: Again, my comments are based on  
20 the information that's presented, and it wasn't clear  
21 if it was to printing costs or personal services. The  
22 front of the agenda items says personal services  
23 contracts and others, so that's why it's -- the  
24 information is not fully developed, which makes it  
25 difficult.

26 MS. SMALL: That may be part of the answer

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1 to this entire exercise. We're pleased to hear your  
2 comments. The response on most of it will be that  
3 these are just concepts that are described in the most  
4 bare detail, and most of what's being done is services  
5 with other equipment and other things that we don't  
6 have at the Board. That's why they're considered  
7 personal services, but they do have a large procurement  
8 element to them as well.

9 CHAIRMAN PENNINGTON: We'd love to hear from  
10 you, so you can keep going. Let me just tell you that  
11 you may be a little premature. One of them that you  
12 brought up is not even recommended for funding, so it's  
13 not likely that that one's going to happen.

14 MS. HAYNIE: I've noticed changes in the  
15 last three meetings --

16 MEMBER EATON: Thank you for pointing that  
17 out, Mr. Chair.

18 CHAIRMAN PENNINGTON: So you might want to  
19 wait until we got through with this and then see what  
20 was what.

21 MS. HAYNIE: We can do it that way if you'd  
22 like.

23 CHAIRMAN PENNINGTON: I know you've been  
24 sitting here all day.

25 MS. HAYNIE: If it's more meaningful for me  
26 to wait as the items are presented, that's fine.

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1     Whatever would be the most effective way.

2                   CHAIRMAN PENNINGTON:   I think that -- Karin?

3                   MS. FISH:   That would definitely, I think,  
4     help.

5                   MS. SMALL:   I think it might be useful if  
6     you go ahead and make your comments, because as we have  
7     been familiar with in the past, things that are not  
8     necessarily recommended for approval on paper change in  
9     the course of the discussion, and so it might be useful  
10    for you to go ahead.

11                  CHAIRMAN PENNINGTON:   That might be, but all  
12    the stuff may change.   Why not come and see what we've  
13    done first.   Then tell us whether you think we are  
14    violating this.   I mean, why do we -- why does she want  
15    to spend her time to tell us about model waste  
16    diversion program when it's not even recommended for  
17    funding at this point and may not get funded, and the  
18    next one may get funded at half of what it is.

19                  I think you're putting the cart before the  
20    horse, but if our legal counsel thinks you ought to do  
21    it, let's go.

22                  MS. SMALL:   Well, what I'm thinking is, I  
23    know the list of contracts she has problems with, and  
24    most of them are recommended for funding, because we've  
25    already received that information.

26                  CHAIRMAN PENNINGTON:   Okay.   Let's go on.



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1                   MS. HAYNIE: I think I completed Number 5  
2 and was about to start Number 7.

3                   CHAIRMAN PENNINGTON: Seven?

4                   MEMBER JONES: Seven.

5                   MS. HAYNIE: Again, we belief this is  
6 scientist work. I would like to call your attention to  
7 the last sentence. In the description it says, "The  
8 model green program would demonstrate that Integrated  
9 Waste Management is cost-effective and resource  
10 efficient." Obviously, that's what the Board does.  
11 Again, this appears to be scientific work that can be  
12 done inhouse.

13                   Number 9 is an issue for engineers and  
14 scientists. I've been told that there used to be the  
15 equipment required for this program at the Board, and  
16 it's -- apparently no one seems to be quite sure about  
17 why the program has not been continued by the  
18 scientists and engineers, so apparently the equipment  
19 was available at one point, and if that is the reason  
20 for contracting out possibly, there's equipment that  
21 needs to be updated or repaired or something. I'm not  
22 sure of the reasons. Just like I said, a question.

23                   Number 11 is also an engineering concern for  
24 engineers. Again, testing protocols in all of the  
25 language that's in here I refer to you in the class  
26 specification is what they do. Okay.

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1                   Number 14, the commercial food best  
2   management practices partnership. This program has  
3   been done on a small scale already by the scientists at  
4   the Board at San Quentin and Pelican Bay State Prisons.  
5   There apparently is also an interest for a food waste  
6   program at Sonoma Developmental Services.

7                   So, again, this is another -- we also raised  
8   the question about why this would be contracted out.  
9   It seems it would be state scientist work.

10                  Moving on to Number 24, is the single ACSA  
11   attorneys issue. There may be a good reason for this  
12   legal expertise not being on the Board. It appears  
13   from the history that is described, that this has been  
14   something that has been going on for quite some time  
15   and has gradually gotten larger over the last several  
16   years, and it appears also that if there is an  
17   expertise that was needed in 1992 when this contract  
18   began, and now today this expertise has developed with  
19   this one person, it seems it would have been more  
20   forthright to have that expertise developed within the  
21   Baord itself with their legal staff, if that expertise  
22   does not already exist today.

23                  Those are the questions from ACSA.

24                  Number 27. "The Waste Board" -- in the  
25   second sentence of the description it says, "The Waste  
26   Board will contract with local jurisdictions to take

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1 over Integrated Waste Management responsibility for  
2 implementing, improving, and monitoring waste diversion  
3 programs at state facilities. Again, we believe this  
4 is state scientist work and possibly engineer work, and  
5 that clearly states it would be moved to another  
6 jurisdiction.

7               Number 28, I understand that this basically  
8 is outlining an opportunity for another type of a  
9 cookbook, as you referred to earlier today, and  
10 apparently these types of documents have been done in  
11 the past at the Board, and staff is able to do those.

12              Moving to Number 37. Okay. The first  
13 sentence of the description says, "Contract with the  
14 public, private, or nonprofit entity to develop a  
15 selection protocol, identify and develop 24 exemplary  
16 solid waste diversion program case studies suited for  
17 local government needs." This is exactly the type of  
18 work that your staff does now, and, again, we question  
19 why it would be contracted out again if that is what  
20 the plan is.

21              Number 38. Regional workshops. I know,  
22 just to explain my history with the scientists,  
23 engineers, and attorneys, I've been representing those  
24 three groups for nine years, and I know that the  
25 scientists have done a lot of regional workshops in the  
26 different programs, and that's certainly work that can

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1 be done by your staff.

2               39. This is to implement some or all of the  
3 recommendations contained in the ongoing world  
4 cooperative marketing study for the office of local  
5 assistance, and while there are some marketing  
6 elements, the scientists do get involved with the  
7 marketing of the -- for the -- they've done the world  
8 cookbook, and they do get involved in the marking so  
9 that they are successful in implementing the goals of  
10 the Board. We believe that the scientists are still  
11 involved in this one, too.

12               Number 40 is a statewide conference.  
13 Coordinating statewide conference. I've been informed  
14 that there have been times that the scientists, and I'm  
15 sure the engineers, too, have coordinated conferences  
16 of many different interested parties, and this is not  
17 something that's new to the state by any stretch of the  
18 imagination, and scientists and engineers have done  
19 this work here at the Waste Board. As an example,  
20 there was a telephone directory recycling study that  
21 was done without a budget at all, even though one was  
22 allocated by the legislature a few years ago. And the  
23 staff person was directed to not use that budgeted  
24 money and did not do so. So we know there's people who  
25 have the skills and abilities to conduct this work.

26               Number 41. The first response I got to



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1    this -- the description is "Funding to conduct a  
2    qualitative assessment of Integrated Waste Management  
3    programs and their impact on the waste stream" -- was  
4    it sounds like fun, so obviously there's interest from  
5    the Waste Board scientist to do this type of work, and  
6    they do have this expertise.

7                   Number 42 I note only because it's regarding  
8    the integrated selected data bases, and I just wanted  
9    to had comment to ensure that the scientists and  
10   engineers who would eventually be the users of the  
11   system, that they would be involved in the process.

12                  Number 43. I note in the description it  
13   says, "Promotion of on-site management of organic  
14   materials and the procurement of and use of compost in  
15   mulch by commercial and residential landscapers,  
16   gardeners as primary targets, and this is trying to  
17   focus the landscapers gardeners to doing their business  
18   differently. The Waste Board scientists and engineers  
19   have done that with other groups and they believe that  
20   they would be just as successful with this type of a  
21   project.

22                  And Number --

23                  MEMBER EATON: Do you have any examples of  
24   that, just out of curiosity.

25                  MS. HAYNIE: That one I don't, but I can  
26   certainly get them to you. Would you like that?

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1                   MEMBER EATON: That would be helpful.

2                   MS. HAYNIE: Okay.

3                   MEMBER EATON: If there are those programs,  
4 we didn't know about them, and we probably should, and  
5 if they're not, then what you say is not accurate and,  
6 therefore, not relevant.

7                   MS. HAYNIE: Okay. We've had to do this  
8 very quickly with all the changes ourselves.

9                   Number 44. I'd like to just draw your  
10 review to the numbers in the description paragraph that  
11 says, "Review existing studies, develop case studies,  
12 develop a background paper, arrange and conduct a  
13 forum, and evaluate the effectiveness of the forum and  
14 provide followup."

15                   Again, this is the type of work the  
16 scientists and engineers do in many different  
17 situations and projects.

18                   Number 46 is the Grass Cycling Outreach  
19 Program. I've been informed that one person has been  
20 running this program alone for some time and -- one or  
21 two people -- and, again, it appears that the proposal  
22 is to contract this work out. Now maybe that's not  
23 what the plan was, but, again, that's the way it  
24 appeared to us, and we don't -- if the program's being  
25 expanded, it should be expanded inhouse with inhouse  
26 staff. Okay.

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1                   Number 50. "Develop and procur educational  
2 materials, displays, handouts, et cetera, to promote  
3 recycling reuse of construction and demolition debris  
4 and to also promote the purchase and use of recycled  
5 contractibility products." The Board has, again, done  
6 all that list of items of steps of their projects in  
7 other applications, and the scientists do not see the  
8 difference between one type of project over another  
9 project if the process is still the same. Okay.

10                   Number 52. This is "Develop a  
11 deconstruction training program to include a video and  
12 written support materials designated to educate and  
13 encourage the public on the process and benefits of  
14 recovering deconstruction materials for reuse instead  
15 of sending those materials to California landfills."  
16 I've actually checked out about how much it would cost  
17 to do videos. Now I don't know what your estimated  
18 number of videos would be, but if that is primarily  
19 what the \$1000.00 is for for the actual production of  
20 the videos, that would be one thing, but the other  
21 elements that are described in that description are  
22 things that can be done by the scientists.

23                   MEMBER FRAZEE: That's one that's been  
24 struck from the listing.

25                   MS. HAYNIE: Oh, it has. Okay.

26                   Is there any questions at this point? I

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1 will certainly get back to Mr. Eaton about his  
2 question.

3 MEMBER JONES: Is that all of them?

4 MS. HAYNIE: That's all of our concerns at  
5 this point.

6 MEMBER JONES: 2,812,000, no problem.

7 MS. FISH: Board member, Jones --

8 MEMBER JONES: Grant money.

9 MS. FISH: -- before you give that --  
10 Board Member Jones, before you give that all to  
11 grants --

12 MS. HAYNIE: Thank you.

13 MS. FISH: -- keep in mind.

14 CHAIRMAN PENNINGTON: Thank you. Sorry we  
15 kept you waiting all day.

16 MS. FISH: We are going to be looking as  
17 we're going through the BCP process, we have submitted  
18 a number of BCP's that are confidential at this point,  
19 which we could ask for midyear implentation, and fully  
20 intend to ask for staff to do a number of these things  
21 if we receive Board approval, and so that's what we're  
22 waiting for. So while we appreciate the union's being  
23 here, we are also looking at that issue as well and are  
24 going to be taking each one of these individual as we  
25 receive direction from you to go forward.

26 MEMBER JONES: So you're telling me don't



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1 get too excited.

2 CHAIRMAN PENNINGTON: Don't spend the money

3 yet.

4 Okay. Now we will move to --

5 MEMBER EATON: How much for a 5 percent

6 increase for the staff?

7 MS. FISH: I'd agree to that.

8 CHAIRMAN PENNINGTON: Okay. We're going to

9 move to the regular agenda items now.

10 Item Number 6, Consideration of approval of

11 Scope of Work --

12 MEMBER JONES: That's tomorrow.

13 CHAIRMAN PENNINGTON: Yeah, we're going to

14 take the -- go through the concepts tomorrow morning.

15 I just wanted --

16 MS. TRGOVICH: Chairman Pennington,

17 Item Number 6 was really contingent upon the outcome of

18 Continuing Business Item Number 6 in order to approve

19 the scope of work, we would have needed a contract

20 concept to proceed with, so we would request that you

21 hold this.

22 CHAIRMAN PENNINGTON: We'll hold that over

23 till tomorrow. Item Number 6 will be held over till

24 tomorrow. Now we're going to move to Item Number 7.

25

26 ///

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1 AGENDA ITEM NUMBER 7

2 MEMBER EATON: Mr. Chair, I understand that  
3 it was regards to Item Number 7 that the person who did  
4 the workup is out on medical leave and will be back in  
5 about a week, a week and a half, and I have some  
6 questions about some of the monies allocated, and,  
7 therefore, would ask that this be put over to the first  
8 week of October. For instance, we, again, provide a  
9 \$168,000 to the Santa Monica Bay restoration project of  
10 which, if you recall, from part and parcel of the last  
11 coastal commission meeting that we had where we gave  
12 them an additional 400-and-some-odd-thousand dollars to  
13 do this kind of work in and around this area, that I  
14 think it would only be encumbent upon us to kind of  
15 wait until the person who is responsible for the workup  
16 can come back from sick leave, which, I guess, is the  
17 first week of October, which will be our next Board  
18 meeting after Santa Barbara.

19 CHAIRMAN PENNINGTON: Okay. What group were  
20 you concerned about?

21 MEMBER EATON: Item Number 7 as a whole.  
22 There's \$2.2 million worth of nonprofits in there.

23 CHAIRMAN PENNINGTON: Okay. Without  
24 objections -- we do have somebody in the audience that  
25 wanted to speak to this. I wonder if they'd like to  
26 wait until we take it up at the meeting in October, or

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1 whether they want to talk now. Mr. Castaneda? Am I  
2 saying that right?

3 MR. CASTANEDA: Mr. Castaneda.

4 CHAIRMAN PENNINGTON: Castaneda.

5 MR. CASTANEDA: Thank you very much,  
6 Chairman Pennington. I really would like to speak  
7 today since I've come from San Diego, and we hopefully  
8 will be informed when that meeting in October occurs.

9 CHAIRMAN PENNINGTON: Certainly.

10 THE WITNESS: Perhaps we'll be given the  
11 opportunity to speak again.

12 Good afternoon. My name is Steve Castaneda.  
13 I'm here today on behalf of the Partnership for  
14 Environmental Progress, also known as PEP. We're  
15 asking that you reconsider and amend staff's  
16 recommendation regarding funding for nonprofit oil  
17 grants. We make that request because should you  
18 approve staff's recommendation, the CIWMB would be  
19 excluding one of the largest focus audiences in the  
20 county of San Diego from the oil education, at least  
21 from the CEO nonprofit prospective. And San Diego,  
22 according to 1997 San Deg census updates, 35 percent of  
23 the region's population is Hispanic and Asian with a  
24 large degree of each community limited English  
25 speaking. Your staff has recommended that no  
26 specialized targeted outreach and education be provided

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1 to these vulnerable and otherwise hard to reach  
2 communities, basically, and the recommendations they've  
3 made for San Diego County in terms of those  
4 organizations.

5 In all the studies that I've seen, and we've  
6 checked and apparently that's pretty much all that's  
7 available at this point, each of these communities and  
8 populations represent large percentages of  
9 do-it-yourself oil changers and are equally potential  
10 improper disposers. We have also identified the  
11 burgeoning East Africa Refugee community, which in  
12 San Diego -- and I think San Diego's probably the  
13 largest population -- is growing more and more each day  
14 also as a vulnerable community, which doesn't appear on  
15 any of the research that's been done but fits the  
16 profile of those vulnerable and susceptible community.

17 PEP has been providing outreach and  
18 education services for the CIWMB through this program  
19 for the last two and a half years, exclusively in these  
20 communities. In each of previous grants cycles, we  
21 have attained or surpassed our objectives and provided  
22 education to the most hard reached communities in the  
23 county. We have distributed over 8,000 free oil  
24 recycling containers to minority communities and worked  
25 to established 13 certified and noncertified oil  
26 recycling centers in these neighborhoods, and this is



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1 particularly important because these are the kinds of  
2 neighborhoods -- inner city neighborhoods that have few  
3 Kragen, Chief Auto Parts, and other chain stores that  
4 routinely provide free or rebate recycling services.  
5 Pep has worked hard and will continue to work hard to  
6 convince minority owned mom-and-pop businesses to offer  
7 recycling services where they're needed most. In fact,  
8 it is these same neighborhoods that are plagued with  
9 soil contamination, polluted water shed and stream  
10 problems. Pep also secured a partnership with  
11 Americorp to provide value added services to the  
12 program.

13 We ask that you consider the need in  
14 continuing the work in these communities and also PEP's  
15 past performance and reevaluate the staff's  
16 recommendation. Your funding levels are higher. In  
17 fact, all the organizations that are recommended to be  
18 funding are slated to get more money, at least from  
19 what we can tell, and there's a questions of last  
20 year's remaining funds. So we're just asking you to  
21 consider our past performance and understand the need  
22 in these communities if, in fact, PEP is not funded.

23 Thank you.

24 CHAIRMAN PENNINGTON: Thank you. Any  
25 questions?

26 Okay. Thank you. Sorry we kept you waiting

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1 so long today.

2 Okay, now we're going to move to Item  
3 Number 8, Consideration of scoring criteria and  
4 evaluation process for the 1998/99 fiscal year  
5 Household Hazardous Waste Grants.

6 AGENDA ITEM NUMBER 8

7 MS. FRIEDMAN: Good afternoon,  
8 Chairman Pennington and Board members. Nora Keenan  
9 will make the presentation for the Used Oil and  
10 Household Hazardous Waste Staff.

11 MS. KEENAN: Good afternoon. My name is  
12 Nora Keenan. I work in the Used Oil and HHW branch.  
13 Today I am here to present the consideration of scoring  
14 criteria and evaluation process for the 1988/1999  
15 Household Hazardous Waste Grants.

16 As kind of a where we are in the process,  
17 this is a step we were at in February with the  
18 nonprofit grants that are going to be coming before you  
19 in early October now. So to give you some kind of  
20 bookend field, in September 1996 the Board approved the  
21 general review criteria and process. Staff are  
22 required to reference criteria to the Board for your  
23 approval.

24 Attachment 1 is the proposed scoring  
25 criteria. Criteria 1 through 6 are the same criteria  
26 approved in 1996 and are used for all Board grant

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1 programs. They highlight areas of need, objectives,  
2 methodology, evaluation, budget, and completeness. All  
3 that changes for these general review criteria are the  
4 point allotments.

5 Criteria 8 through 12 are the preference  
6 criteria. Please note that 8, 9, and 10 are required  
7 by statute. Number 11 we included as a result of  
8 direction at our last award meeting for the HD-6 cycle,  
9 the last of HHW grants to insure that because of our  
10 limited funding availability that as many applications  
11 throughout the state are funded as possible. And  
12 number 12 has been a consistent goal of our program to  
13 fund permanent household waste facilities that are  
14 self-sustaining on the local level. By  
15 "self-sustaining" we do not mean they charge for  
16 collection or are somehow revenue generating, but that  
17 the local governments recognize the value of these  
18 programs and are willing to put forward their funds to  
19 keep them running.

20 The review process is actually identical to  
21 what we just did for the nonprofit grants. All  
22 applications will be -- that we receive will be divided  
23 between review panels consisting of three members.  
24 Generally these review panels consist of members of my  
25 branch as well as the administration division.

26 For the first time this year with the -- I  
200

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1 keep harping back to the nonprofit grant as a source of  
2 reference, but what we did for that grant and we are  
3 proposing to do for the HHW as well, is that we did a  
4 sampling. We basically doubled reviewed a sampling of  
5 applications to make sure that our review panels were  
6 consistent in their evaluations and their  
7 interpretation, and we found that in all cases, the  
8 recommendation to pass or not to pass an application  
9 was the same and that the total point amount was within  
10 five points in each of the six cases, and we propose to  
11 do that for the HHW grant cycle as well.

12               Each panel member will review individually  
13 the application and meet later with the rest of the  
14 panel to achieve a composite panel score. The panel  
15 chairs will then meet to ensure that the criteria were  
16 applied equitably. Application scores will be ranked  
17 and in the event that there's insufficient funding for  
18 all eligible applicants, proposals will be recommended  
19 in rank order.

20               Staff recommends approval of Resolution  
21 98-280, and I'm available to answer any questions you  
22 might have.

23               CHAIRMAN PENNINGTON: Questions?

24               Paper break. Okay. Let's break.

25                               (Break taken.)

26               CHAIRMAN PENNINGTON: Okay. Let's get back  
201



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1 to business here. Where were we?

2 MS. KEENAN: We were at the point where I'm

3 open for questions.

4 CHAIRMAN PENNINGTON: You're ready for

5 questions.

6 MS. KEENAN: Yes.

7 CHAIRMAN PENNINGTON: Okay. Any questions?

8 MEMBER JONES: Mr. Chairman.

9 CHAIRMAN PENNINGTON: Yes, Mr. Jones.

10 MEMBER JONES: I'm going to make a motion

11 that we adopt Resolution 98-280, to adopt the criteria

12 for the Household Hazardous Waste Grants.

13 CHAIRMAN PENNINGTON: Okay.

14 MEMBER FRAZEE: I'll second.

15 CHAIRMAN PENNINGTON: It's moved and

16 seconded. Any further discussion? If not, will the

17 secretary call the roll, please.

18 THE SECRETARY: Board Member Eaton.

19 MEMBER EATON: Aye.

20 THE SECRETARY: Frazee.

21 MEMBER FRAZEE: Aye.

22 THE SECRETARY: Jones.

23 MEMBER JONES: Aye.

24 THE SECRETARY: Chairman Pennington.

25 CHAIRMAN PENNINGTON: Aye. Motion carries.

26 Move to Item Number 9, Consideration of

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1 State Legislation.

2 MEMBER EATON: Mr. Chairman, I think that  
3 Mr. Jones would ask that if we could just kick this  
4 over to tomorrow in the interest that some people are  
5 in the audience who traveled some miles and -- move.

6 CHAIRMAN PENNINGTON: Okay. Sure.

7 MEMBER EATON: This isn't the most pressing  
8 thing, so if you do that it will be fine with me.

9 CHAIRMAN PENNINGTON: Move that till  
10 tomorrow.

11 MEMBER JONES: So we'll do that tomorrow?

12 CHAIRMAN PENNINGTON: Yes.

13 Moving to 10, Item Number 10, Consideration  
14 of a revised solid waste Facility permit for the  
15 Mission Trails Transfer Station in Santa Clara County.

16 Don Dier.

17 AGENDA ITEM NUMBER 10

18 MR. DIER: Thank you, Mr. Chairman. I'd  
19 like to acknowledge Jon Whitehill of my staff who did  
20 the staff work on this but he had to -- couldn't stick  
21 it out. He had to leave at 3:00 for a wedding  
22 rehearsal, so I'm filling in for him.

23 CHAIRMAN PENNINGTON: Should have left some  
24 champagne for us, though.

25 MR. DIER: This facility was originally  
26 permitted as the Richards Avenue Recycling Facility in

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1 1991. In January of this year the LEA approved a  
2 change in operator and owner. The new operator,  
3 Mission Trails Waste Systems and new owner, Santa Clara  
4 Valley Industries are proposing to implement changes  
5 that were originally proposed by the previous operator  
6 and approved by the City of Santa Clara Planning  
7 Division in 1984. These changes include paving of the  
8 parking area for use as a new entrance, allowing public  
9 dropoff of materials without an increase in traffic or  
10 tonnage, an installation of improved processing  
11 equipment. The facility will still be prohibited from  
12 accepting household garbage and all waste will be  
13 delivered, stored, and processed within the transfer  
14 building.

15           The previous operator was not able to revise  
16 the permit do to violations of state minimum standards.  
17 Just for the record, the previous operator did have a  
18 fairly dismal record of operation there, but since the  
19 current owner and operator has taken over, the  
20 operations have been cleaned up.

21           The LEA has documented that the facility is  
22 currently operating in compliance with state minimum  
23 standards and has not noted a violation since November  
24 of 1996. However, one business in the surrounding  
25 industrial park has indicated that they may continue a  
26 lawsuit filed against the previous owner/operator for

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1 odor, noise and dust nuisance. That was in 1996. If  
2 you like, I'm sure the operator can give you an update  
3 on that, but that's not really an issue with this  
4 permit. In fact, I think that whole issue has been  
5 continued till December. As I indicated, it's not an  
6 issue here.

7           At the time the agenda item was prepared  
8 Board staff had not yet completed the Integrated Waste  
9 Management plan conformance finding, but since that  
10 time it has been found in conformance with the plan,  
11 and staff are able to make all the required findings,  
12 which include the requirements of CEQA have been met,  
13 the facility was originally built based upon a negative  
14 declaration that was adopted in 1990, and the changes  
15 that are undergoing at this time are being handled  
16 through a Class 1 categorical exemption, which the city  
17 has processed, and we reviewed that and agree with that  
18 determination.

19           The proposed permit is consistent with  
20 standards adopted by the Board. The operation of the  
21 facility is identified in and consistent with the  
22 approved CIWMP, the County Integrated Waste Management  
23 Plan, and Board staff and the LEA have determined that  
24 the plan and operation is in compliance with state  
25 minimum standards.

26           So at this time we will recommend the Board  
205



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1 adopt Resolution 98-312, concurring in the issuance of  
2 solid waste facility permit Number 43-AO-0002.

3 John Dufresne of the LEA is here to answer  
4 any questions, and the operator, Mr. Pelligrini is also  
5 present if you have any questions.

6 CHAIRMAN PENNINGTON: Do you have any  
7 questions?

8 MEMBER JONES: Mr. Chairman.

9 CHAIRMAN PENNINGTON: Mr. Jones.

10 MEMBER JONES: The odor, dust, and -- I  
11 think you said it, but I think I was searching for the  
12 resolution -- the odor, dust, and litter issues that  
13 were brought up in '96 --

14 MR. DIER: And noise.

15 MEMBER JONES: And noise -- you said that  
16 there haven't been any violations --

17 MR. DIER: No, there haven't.

18 MEMBER JONES: -- noted since when?

19 MR. DIER: Since November of '96.

20 MEMBER JONES: That's Mr. Pelligrini?

21 MR. DIER: Yes, it is.

22 MEMBER JONES: Mr. Chairman?

23 CHAIRMAN PENNINGTON: Yes.

24 MEMBER JONES: I'd like to make a motion  
25 that we adopt Resolution 98-312, issuing a solid waste  
26 facility permit for facility number 43-AO-0002.

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1                   MEMBER FRAZEE: I will second.

2                   CHAIRMAN PENNINGTON: I'd be glad to bring

3   it to a vote, but we don't have a resolution, so we'll

4   have to wait about a week.

5                   MEMBER EATON: If you could eliminate

6   paragraph zero.

7                   CHAIRMAN PENNINGTON: If there's no further

8   discussion, will the Secretary call the roll --

9                   THE SECRETARY: Board Member Eaton.

10                  MEMBER EATON: Aye.

11                  THE SECRETARY: Frazee.

12                  MEMBER FRAZEE: Aye.

13                  THE SECRETARY: Jones.

14                  MEMBER JONES: Aye.

15                  THE SECRETARY: Chairman Pennington.

16                  CHAIRMAN PENNINGTON: Aye. Motion carries.

17                  Sorry to have kept you here so long all day.

18                  Okay. Moving on to Item Number 11,

19   consideration of sites for remediation under the Waste

20   Tire Stabilization and Abatement.

21                  AGENDA ITEM NUMBER 11

22                  MS. NAUMAN: Mr. Chairman and members,

23   Bob Fujii will be making the presentation.

24                  CHAIRMAN PENNINGTON: Okay. Thank you.

25                  MR. FUJII: Good afternoon,

26   Chairman Pennington, members of the Board.

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1                   Item Number 11 is consideration of sites for  
2   remediation under the Waste Tire Stabilization and  
3   Abatement Program. Today we'll be bringing forward  
4   seven sites for consideration of funding out of our  
5   program, and at all seven sites the property owners  
6   have failed to take appropriate action as ordered by  
7   the Board.

8                   The seven sites are described as follows.

9                   The first site is the Brewer Waste.

10                  Tire site located adjacent to Highway 43 in  
11   Tulare County. There are an estimated 275,000 waste  
12   tires that have been stockpiled in an unsecured,  
13   remote and rural agricultural area in Tulare County.  
14   The Board previously approved funding for  
15   stabilization measures at this site, but staff have  
16   been unable to locate the property owners to secure  
17   property access, so no stabilization work measures  
18   have been implemented today, and since the property  
19   has been sold to new owners, Board staff will pursue  
20   administrative enforcement actions against these new  
21   property owners and then seek property access with  
22   assistance from the county through their nuisance and  
23   abatement ordinance in an attempt to get them to  
24   remediate their site. The counties also will assist  
25   us in surveying the property to determine exactly how  
26   many tires are stockpiled on each of the properties,

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1 and if we are unsuccessful with our enforcement  
2 process, we will proceed with the Board's sponsor a  
3 mediation and pursue costs or coverage against the  
4 new property owners.

5 Another issue at the site was that there was  
6 a tire fire that occurred at this site in 1994 and the  
7 fire department has since separated the larger piles  
8 into smaller piles, and in doing that, has spread these  
9 tires over more parcels than they originally were  
10 present on in the first place. So it's going to  
11 complicate our cleanup a little bit. The estimated  
12 cost for remediation of this site is if \$550,000.

13 The second site is The Central Recycling  
14 waste tire site, also located on -- also located in  
15 Tulare County on Avenue 304. The operator/property  
16 owner was paid a fee and accepted approximately 33,000  
17 waste tires as an auto dismantling and wrecking yard in  
18 the city of Visalia. The surrounding land use is  
19 industrial and commercial and is within about a  
20 five-mile radius of downtown area of Visalia. The auto  
21 dismantling wrecking yard is an operating business and  
22 it's secured by perimeter fencing. In an attempt to  
23 remediate this site, the property owner has it entered  
24 into a written agreement with the Board to remove an  
25 equivalent of 2,000 waste tires each month for an  
26 18-month period, and if the tires are not removed by



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1 the end of the 18-month period to a facility authorized  
2 to accept the waste tires, a simple penalty in the  
3 amount of \$45,000 will be assessed. However, if this  
4 should change, we would proceed with the Board's  
5 sponsor remediation and pursue cost or coverage against  
6 the property owner. Estimated cost for remediating  
7 this site, \$45,000.

8           The third site is a land waste tire site  
9 located in San Benito County, and although the site has  
10 removed some of the tires over the past four years,  
11 there are still an estimated 20,000 tires remaining  
12 illegally stockpiled at the site. This property  
13 consists of approximately five acres and is located in  
14 a low density residential agricultural area in  
15 Hollister. The tires are immediately behind a  
16 residence and there are several residences within 1,000  
17 feet, and the site is not secured by any fencing. Our  
18 car enforcement section and legal have pursued and  
19 obtained a stipulated lien against the property in an  
20 amount of \$34,000. The estimated cost for remediating  
21 this site, \$53,000.

22           The fourth site. Secret Town Road waste  
23 tire site, located in an unsecured remote wooded hilly  
24 area in Placer County. There are an estimated 25,000  
25 waste tires discarded along the slopes of a ravine and  
26 hidden in the terrain by an unknown party. Access to

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1 the tires is difficult and very limited work areas at  
2 the top of the ravine for the remediation. The  
3 property's owned by several elderly individuals, and  
4 the property owners have already spent about 13,000  
5 trying to clean the tires up. They hired the  
6 California Conservation Corp to remove the tires, and  
7 originally it was thought that 13,000 would provide  
8 sufficient funds for the cleanup, but, you know, after  
9 one year in removing the tires one by one, half the  
10 tires were about 13,000 still remaining. The property  
11 owners have exhausted their resources and are trying to  
12 remediate the pile that they did not create, and so the  
13 pile still remains. Estimated cost for remediating  
14 this site is \$33,800.

15           The fifth site is Turner Auto Wrecking site  
16 located in Fresno County, an estimated 75,000 waste  
17 tires that have been discarded at an auto wrecking and  
18 dismantling yard located directly east of Highway 99  
19 near downtown Fresno. The auto dismantling and  
20 wrecking is an operating business and is secured by  
21 perimeter fencing.

22           The owner of the property has been  
23 stockpiling waste tires for many years, and for more  
24 than three years the owner has been attempting to  
25 remediate the site. However, to date very few tires  
26 have been removed from the site. Board enforcement

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1 staff issued a notice and order in which the property  
2 owners were requested to submit a compliance schedule  
3 and removal plan. The property owner who -- the  
4 property owners have not removed the tires within the  
5 time frames agreed upon in the removal plan, and so  
6 staff is in the process of preparing an administrative  
7 complaint against the property owners. Estimated cost  
8 for remediating this site is \$200,000.

9           The sixth site is the Henry Hiller waste  
10 tire site. It's located in a low density, rural,  
11 residential neighborhood in Fresno County. There are  
12 an estimated 2,000 waste tires that were stockpiled by  
13 the owner's son around his residence on the site. The  
14 property has no perimeter fencing. The property  
15 owners, the parents of the operator, have evicted their  
16 son, and he's presently incarcerated on an unrelated  
17 charge. The Board enforcement staff issued a notice  
18 and order requiring that the property owners submit a  
19 compliance schedule and removal plan to remediate the  
20 site. The owners live on a fixed income and do not  
21 have resources to remediate the tires on their  
22 property. So they've agreed to sign a stipulation lien  
23 in an amount of \$20,000, and have provided site access  
24 for a Board sponsored cleanup of the site. Estimated  
25 cost for cleaning this site up is \$6,000.

26           The last -- the seventh and last site is

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1 Bill Auto Wreckers waste tire site, located on  
2 Feather River Road in the city of Linda, Yuba County.  
3 The owner of the site stockpiled and estimated 10,000  
4 waste tires over the last 18 years. The site is  
5 secured by perimeter fencing. The surrounding is  
6 mostly agricultural.

7 Board enforcement staff issued a notice and  
8 order requiring that the property owner submit a  
9 compliance schedule and removal plan. The property  
10 owners have responded that they do not have resources  
11 to clean the site up, so they have signed a stipulated  
12 lien in the amount of \$16,000 and have provided access  
13 for a Board sponsored cleanup. Estimated cost,  
14 \$25,000.

15 At this point staff is recommending adoption  
16 of Resolution 98-284, approving these sights for  
17 remediation. That concludes my presentation.

18 Any questions?

19 CHAIRMAN PENNINGTON: Questions?

20 MEMBER EATON: I've got a general question.

21 CHAIRMAN PENNINGTON: Go ahead, Mr. Eaton.

22 MEMBER EATON: I continue to be somewhat  
23 inquisitive. Since we're learning about CEQA today, I  
24 might as well learn about tires.

25 Can you explain to me -- do we have a  
26 priority list of sites.



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1                   MR. FUJII: Priority meaning?

2                   MEMBER EATON: It says right here that these  
3 are priority. Do we a priority list of sites for  
4 remediation?

5                   MR. FUJII: We have a list of sites for that  
6 we're currently in the process of remediating. There  
7 isn't really a priority list. We basically clean every  
8 tire up -- tire site up that comes into our program for  
9 consideration if it's approved by the Board for  
10 cleanup.

11                  MEMBER EATON: How do we develop a list of  
12 priority sites, and let me tell you, this is nothing  
13 against you or the staff, but we are increasingly  
14 coming under scrutiny as a Board for how much money is  
15 devoted for market development, how much for cleanup,  
16 et cetera. Do we have a list of priority sites, and  
17 how do we determine, you know, how and what to  
18 remediate on that site, because I think those are  
19 important questions, because they're being asked by  
20 those who supply us with the necessary funds?

21                  MR. FUJII: I guess to answer your question,  
22 when the sites are referred over to us from  
23 enforcement, they're given a priority by our  
24 enforcement staff, and typically the sites that are  
25 near a residential development or in areas sensitive  
26 to, you know, if a tire fire were to occur are ranked

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1 higher than those that are not in more remote areas.  
2 And so, yes, they are ranked when they come over,  
3 usually with a ranking of 1, 2, or 3. The sites that  
4 typically we bring forward to you are in the 1, you  
5 know, the first rank kind of category. We do receive  
6 some rank 3's that are on the list, and what we  
7 typically try to do is, when we go up to remediate,  
8 say, a rank 1 site and there are some in the area that  
9 happen to be rank 3, because it's cost effective for us  
10 to use our contractor, we may go ahead and deal with  
11 the rank 1 site and maybe clean up a rank 3 site at the  
12 same time if it's in the general vicinity.

13 MEMBER EATON: But, do we have a list of  
14 those that might be the most dangerous to the public  
15 health and safety? I mean, if we're going out and  
16 looking at, you know, or surveying site, what is our  
17 process? Because I think that's going to become an  
18 important question, and if they don't have one, then I  
19 would ask staff if they could try to develop a priority  
20 list of those sites which become, you know, throughout  
21 the state.

22

23 MR. FUJII: You know, not speaking for  
24 enforcement, but I can tell you that probably the  
25 most -- the largest and most -- the sites that would  
26 pose the greatest threat to the public have been

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1 identified, probably through our process already.

2 There are probably some sites out there still that we

3 haven't dealt with because we haven't identified them

4 yet. I think I can tell you with a fair amount of

5 confidence that we've identified pretty much all the

6 tire sites that pose the most significant threat to the

7 public at this point. And they're either on our list

8 or in the enforcement process somewhere.

9 MEMBER EATON: Could we get that list?

10 MR. FUJII: Sure.

11 MEMBER EATON: Thank you. That's all I

12 have, just a general question.

13 CHAIRMAN PENNINGTON: Is that the same list

14 I got --

15 MR. FUJII: Yeah. The list of sites, I

16 think I provided them to most of the Board members of

17 all the sites that are currently on our clean-up list.

18 MEMBER EATON: The key response was most

19 Board members.

20 MR. FUJII: Okay. Sorry about that.

21 MEMBER JONES: I don't think I have it

22 either.

23 MEMBER EATON: Mr. Jones didn't have it

24 either.

25 MR. FUJII: I stand corrected.

26 MEMBER EATON: That's all right. I think

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1   it's just important so you know the reasoning for the  
2   questioning. It has nothing to do with what you're  
3   doing or recommending. Rather, it is really a question  
4   that I am being asked by the budget makers in the  
5   legislature. I think we're also about to embark upon  
6   doing an entire report. Those kinds of things, and I  
7   think all of those will help us as a Board and those  
8   who are going to be charged with that responsibility  
9   for doing that work to have the necessary information  
10   and, you know, so we can talk all amongst ourselves,  
11   and I think that's going to be helpful and it also  
12   probably provide justification. So it's really meant  
13   more in a constructive way than a critical or  
14   destructive way.

15               MR. FUJII: Okay. I appreciate that.

16               CHAIRMAN PENNINGTON: Any other questions?

17               If not, I'll entertain a motion.

18               MEMBER FRAZEE: Mr. Chairman, I'll move  
19   adoption of Resoltuion 98-284.

20               MEMBER EATON: I'll second that motion.

21               CHAIRMAN PENNINGTON: Okay. It's been moved  
22   and seconded. If there's no further discussion, will  
23   the secretary call the roll.

24               THE SECRETARY: Board Member Eaton.

25               MEMBER EATON: Aye.

26               THE SECRETARY: Frazee.



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1 MEMBER FRAZEE: Aye.

2 THE SECRETARY: Jones.

3 MEMBER JONES: Aye.

4 THE SECRETARY: Chairman Pennington.

5 CHAIRMAN PENNINGTON: Aye. Motion carries.

6 Item Number 12, consideration of actions to  
7 address issues associated with the Tiered Regulatory  
8 System. Julie Nauman.

9 AGENDA ITEM NUMBER 12

10 MR. HOLMES: Good afternoon, Mr. Chairman.

11 Bob Holmes with the permitting and enforcement  
12 division.

13 This item -- staff began work on this item  
14 in March of 1998 with a presentation to the permitting  
15 and enforcement committee. The committee directed  
16 staff to go out and collect additional feedback from  
17 interested and affected parties. Workshops were held  
18 in May of this year. One of the common things of the  
19 May workshops were that the majority of the issues were  
20 centered in the standardized tier. There wasn't a good  
21 deal of representation from operators of standardized  
22 tiers or LEA's who oversee those permits at the  
23 workshops, so it was suggested that staff survey those  
24 operators and LEA's. The results of the survey are in  
25 Attachment 2 of the staff report. Some of the  
26 discussion and some of the results from the workshops

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1 are in Attachment 1 of your agenda item.

2 From the survey and from the results of the  
3 workshops, 15 different possible responses were  
4 analyzed and addressed by staff. Those 15 are also  
5 included your agenda item. Staff are recommending  
6 action on five of those -- and if I can get this fired  
7 up. Staff are recommending action in the following  
8 five areas. These are also numbered in your agenda  
9 item, the numbers to the right.

10 The first item is uptiering. We find this  
11 one to be a promising action. It was found very well  
12 received by both industry and the LEA community as a  
13 way to address a good number of the issues in one  
14 action. This option is currently available with the  
15 regs as they stand today. However, in order to  
16 implement that option, an operator would have to  
17 describe themselves as something other than they are.  
18 For example, if you were a green waste composter and  
19 you wanted to receive or process greater than 10,000  
20 cubic yards, you would have to describe yourself as a  
21 mixed municipal waste composter, and it may not be  
22 prudent for a number of reasons.

23 The second issue has to do with permit  
24 change flexibility. Currently there is no provision to  
25 revise a tiered permit. You'd simply apply and receive  
26 a new permit, and it has been suggested that some

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1 consideration be given to existing facilities that are  
2 tiered so that it doesn't appear that they are  
3 continually applying for new permits. There should be  
4 some credit given to existing operations.

5           The third change has to do with the change  
6 in operation. It was suggested that the regulations  
7 and policies should be clearer to provide for changes  
8 to the operation. Staff's suggestion here is that we  
9 adopt a process similar to what was adopted for  
10 landfills in Title 27 whereby application is made to  
11 the LEA 150 days in advance of wanting to make a change  
12 in operation. If three findings can be made that the  
13 change is consistent with CEQA, is consistent with  
14 state minimum standards, and consistent with the terms  
15 and conditions of the permit, that change can be made  
16 in the RFI and the permit does not have to be revised.  
17 If those findings cannot be made, then a permit  
18 revision is required.

19           The fourth suggestion has to do with  
20 standardized permits, and the process time available to  
21 Board staff after the LEA has made their decision on  
22 the completeness of the package, and currently 30 days  
23 is allowed for that, and oftentimes Board staff, that  
24 time is significantly reduced, so staff are asking the  
25 Board either to delegate the authority to concur in the  
26 issuance of those permits or to extend the timeline so

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1 we have sufficient time to thoroughly review those.

2           The fifth recommendation has to do with  
3 operations plans. Currently operations plans are  
4 required, and the term we referred to as reports of  
5 facility information for full and standardized permits.  
6 LEA's voiced a strong opinion that some type of  
7 operations plan should be required throughout the tiers  
8 so that they can make a proper determination on  
9 appropriate slotting, as well as to gauge significance  
10 of changes after the facility is in operation.

11           So that concludes staff's recommendation.  
12 As you notice from the updated resolution, there are  
13 two areas that would require a decision on your behalf,  
14 options for you, in addition to this yes or no on staff  
15 recommendations for the permit change flexibility.  
16 What we're saying there is that the process is  
17 currently in regulation. We're not going to adjust the  
18 process any. We're just basically going to give it a  
19 new name and call it a revision. We can't shorten the  
20 process any further than what's already available. So  
21 we're asking you to make a decision, is that  
22 appropriate to do that, is it necessary to do that, or  
23 should we just continue with the regulation as is? And  
24 then, as I mentioned on the option on Number 3 with the  
25 standardized -- Number 4 with the standardized permits  
26 your delegation of authority, or extend the process



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1 time.

2 CHAIRMAN PENNINGTON: Okay. Any questions?

3 MEMBER JONES: I have a few, Mr. Chairman.

4 CHAIRMAN PENNINGTON: Mr. Jones.

5 MEMBER JONES: On the operating plan -- you  
6 know, I don't have a problem with an operation plan for  
7 a facility, but I don't know why slotting -- why it's  
8 required under slotting. Those are clearly  
9 notification to 60 yards or less. So that's a  
10 measurement, and the other than one is 100 -- what is  
11 the other one, 100 tons or less, registration? Is it  
12 100 tons or less.

13 MR. HOLMES: It would depend on -- are we  
14 talking about transfer station or compost or --

15 MEMBER JONES: Transfer. On the  
16 registration tier.

17 MR. BLOCK: For the transfer processing  
18 regulations that are proposed, that's the cutoff.  
19 There are different cutoffs for composting operations  
20 and for other operations that have been subjected to  
21 the tiers, like contaminated soil and ash.

22 MEMBER JONES: Okay. But the operating  
23 plan, one of the things about the registration tier,  
24 and obviously the notification tiers sent a letter and  
25 said, "I want to put a facility over here," but under  
26 the registration tier it was -- I thought that the

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1 regulation showed that they needed to have a brief  
2 description and an operating plan for a transfer  
3 station and that the LEA -- that that was an accepted  
4 document. The LEA would not -- could not add  
5 conditions to that.

6 MR. BLOCK: That's correct. What Mr. Holmes  
7 is talking about, with the transfer processing  
8 regulations, which are still in the process, this is an  
9 issue that's been ongoing at the same time, and so  
10 those regulations on their own actually establish a  
11 requirement for the operations plan in a registration  
12 tier. What we're talking about in this item is  
13 actually putting that into the general procedures for  
14 any kind of registration facility.

15 MEMBER JONES: All right. I don't have a  
16 problem with that, but that doesn't change the -- I  
17 know that -- any committee that we have talked about  
18 some land use issues and some condition issues and, you  
19 know, some things like that, this operating plan is  
20 provided by the operator. Are we going to establish  
21 guidelines of what that should look like?

22 MR. BLOCK: Presumably that would be part of  
23 what we'd put forward as to what would be the contents  
24 of that, and we're talking about it as a descriptive  
25 document right now under the registration tier with the  
26 exception of transfer processing where we've added it.

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1 There's actually no requirement that there be an  
2 operations plan at all. There's some description in  
3 the application, basically, that becomes an attachment  
4 to the registration permit, but those no separate  
5 descriptive document.

6 MR. HOLMES: If I could add, all the staff's  
7 recommendation other than the delegation of authority  
8 would require rule making, and so we would have to  
9 change the regulation, so much of the detail that we  
10 were talking about would come out in that rule making  
11 process.

12 MEMBER JONES: Okay. So basically if we go  
13 along with this, we're going to go through the process  
14 of rule making on a lot of issues, but I don't know if  
15 this is one of them, on the uptiering where we are talk  
16 about the recommendations relies for regulations to  
17 allow for uptiering when an operator and the  
18 enforcement agency agree. Options would be open on all  
19 tiers. You know, because there's also an option for  
20 appeal if they disagree. We've had cases where a  
21 public facility operated in an area with a private  
22 facility and the public facility also happened to be  
23 the LEA, and they did not process a facility increase,  
24 or a facility change in some descriptions because they  
25 were -- you know, they were having a hard time coming  
26 around to do that. When we say that any uptiering is

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1 going to be mutually agreed to between the LEA and the  
2 operator, if an operator has done an EIR and has spent  
3 the money on those things and has established the  
4 permit, or has requested a permit capacity level based  
5 on the capacity on the facility, not so much what's  
6 coming in the door today, but on what that facility has  
7 been built to be able to handle and still operate under  
8 the minimum the standards. Does that have to be agreed  
9 to with an LEA, that, in fact, the LEA agrees that the  
10 facility that that operator could uptier to that  
11 capacity? That becomes an arbitrary decision on an  
12 LEA?

13 MR. BLOCK: Well, of course it could never  
14 be an arbitrary decision for a variety of reasons, at  
15 least not legally.

16 MEMBER EATON: Perhaps capricious but never  
17 arbitrary.

18 MR. BLOCK: Really what we're getting at  
19 with that, and this has been the topic of discussion  
20 for a number of years, and the reason that it's phrased  
21 the way it is in terms of agreement between both the  
22 parties, is we've had a lot of disagreement about who  
23 should get to decide if there are going to be  
24 variations in that tier, and, of course, LEA's think  
25 that they should get to decide regardless of what the  
26 operator may think and vice versa. And so at the very



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1 at least we identified the fact that where both the LEA  
2 and the operator agree that it made sense for a  
3 particular facility to uptier, we want to identify  
4 that. We have not really figured out a way to resolve  
5 where there's a disagreement. It's certainly something  
6 that whether we want to avoid it or not will come up  
7 again as we move through a rule making process. So if  
8 your direction is that you want us to continue to  
9 explore ways to deal with that situation, we can do  
10 that, but for the purposes that this item was brought  
11 forward, we were just zeroing in on that one situation  
12 where we know everybody agrees that we ought to allow  
13 for that uptiering in that case.

14 CHAIRMAN PENNINGTON: Okay. Any other  
15 questions?

16 MEMBER EATON: Just a point of  
17 clarification.

18 CHAIRMAN PENNINGTON: Certainly, Mr. Eaton.

19 MEMBER EATON: The only thing that would not  
20 require a rule making process would be is if we decide  
21 to choose the option of delegation; is that correct?

22 MR. HOLMES: Yes, on the staff's  
23 recommendation, the five items you see there, the only  
24 one that does not require a rule making is the  
25 delegation.

26 CHAIRMAN PENNINGTON: Okay?

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1 I'll entertain a motion.

2 MEMBER JONES: Mr. Chairman, I want to give  
3 you this motion, 'cause I got a feeling we're coming to  
4 an end of today, but on Number 12 while we're talking  
5 about the time, it would be helpful --

6 MR. HOLMES: Mr. Chair, I believe there was  
7 one member of the public.

8 CHAIRMAN PENNINGTON: Oh, I'm sorry.

9 MEMBER JONES: Can I still ask my question  
10 of Bob, first?

11 CHAIRMAN PENNINGTON: It's getting to be a  
12 long day.

13 MEMBER JONES: When we're talking about the  
14 60-day clock, or the 30-day clock, 60-day clock, we had  
15 an issue, jeez, pretty recently -- I think we've dealt  
16 with it at the last three Board meetings -- where we  
17 still have to determine, I think, when we determine  
18 that the clock starts. So I don't -- you know, I would  
19 hope that under Number 12, or whatever it is, Number 12  
20 where we talk about 30 and 60 days that we continue  
21 that discussion. We've had it in committee a lot of  
22 times, but we need to determine when we -- when the  
23 Board determines that an application is complete so  
24 that we don't get jammed three days after a local  
25 hearing with a permit that only has a week left for us  
26 to give up in because we have no options, and I think

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1 if we don't get anything out of these five options, I  
2 think that's one that we had better not walk away from.  
3 I mean, we have got to get that defined or it's going  
4 to continue to be a problem.

5 MR. HOLMES: And that's something you think  
6 we need to do in regulation?

7 MEMBER JONES: Any way you want. I don't  
8 care if it's in regulation or -- whatever is legal.  
9 Whatever gets the discussion from everybody. Obviously  
10 we'll do it in a workshop, but I think we need to make  
11 that very clear some day.

12 MS. TOBIAS: Are you talking about  
13 standardized permits only, or are you talking about all  
14 our permits.

15 MEMBER JONES: I'm talking about all of  
16 them.

17 MS. TOBIAS: I don't know if I want to jump  
18 in here or not, but we have talked in the past about  
19 doing -- I think both you and I brought up doing a  
20 schedule that would show when the items can come in and  
21 make a certain agenda for a certain meeting. Is that  
22 what you're talking about?

23 MEMBER JONES: No. What I'm talking about  
24 is, a package that is delivered and we deem it  
25 complete. Staff says, "Okay. We have accepted this.  
26 We deem it complete," today the clock starts. Not a

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1 phone call that says, "We are going to be sending a  
2 permit to you, and it's going to come FedEx, and it  
3 should there in the next couple of days. Start the  
4 clock," and then two and a half weeks later it shows up  
5 and we've only got another week and a half to make a  
6 decision. That ain't going to work. And it's  
7 happened, and we know it's happened.

8 MR. HOLMES: If it's the desire of the Board  
9 for us to include that aspect in the proposed rule  
10 making, we'll certainly --

11 MS. TOBIAS: We can try.

12 MR. HOLMES: -- make an attempt at it.

13 MEMBER JONES: It's my request. I don't  
14 know how the other Board members feel. I know Bob and  
15 I have had this discussion at an awful lot of --

16 MEMBER EATON: Let's just make it part of  
17 the resolution today.

18 MEMBER JONES: Sure. Make it are part the  
19 resolution. I think it just has to happen.

20 MEMBER EATON: Or not make it part of the  
21 resolution, just the whole issue. I mean, it's up to  
22 you, your lead.

23 CHAIRMAN PENNINGTON: Okay. Mr. Proe.

24 MR. PROE: Yes, Steven Proe from Greenwood,  
25 secretary of the El Dorado County Taxpayers for Quality  
26 Growth. I will try not to be repetitive from my



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1 comments before, but in the interim time of when I came  
2 to speak on the 10th of September, I have had the  
3 opportunity as a result of information received from  
4 the Regional Water Quality Control Board to have made  
5 three visits to the Union Mine Landfill in regards to  
6 the LEA notification process and procedure, which this  
7 Number 12 addresses, and the staff has been --  
8 Mr. Holmes has been informative in providing me with a  
9 copy of Barkley's California Code, Title 27 in regards  
10 to noticing of projects, and the letter that I have  
11 brought forward to present the the Board and the staff  
12 makes a very simple uncumbersome and if anything  
13 compliments what is in the code right now, and this  
14 that is simply if I or any other agency or a group  
15 wishes to be notified of pending projects or when a  
16 project comes in for some sort of a determination or  
17 action by an LEA or by the Waste Board or anyone else  
18 that has regulatory -- and I'm not familiar, that's why  
19 had I'm going a little far afield as to all the things,  
20 but I want to make sure that they're all included --  
21 that if I generate a letter, send the fax into -- I'll  
22 use the LEA because that's what I'm familiar with --  
23 and request to be notified that there is a pending  
24 change, whether it be big or small, just to be notified  
25 that it's in existence and what it is briefly and have  
26 the opportunity if I or anyone else has an interest in

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1    that action to be able to go in, which we have right  
2    now from what I read, to go in and review the documents  
3    that have been submitted and to make appropriate  
4    comments, and I understand the comments and the talk  
5    that we had and some of the talks that I had with staff  
6    where they state that usually isn't a problem, and,  
7    again, I can only deal with I've been up against.

8                In my letter that I've given to you I have  
9    attached documents going back 60 days to our county and  
10   almost 30 days to our LEA requesting documents and  
11   information, and from both entities they have been  
12   unresponsive. The one especially to the county was  
13   under the California Public Records Act, and to this  
14   date there has been no response, and I forwarded copies  
15   of that also to the LEA because they are the one that I  
16   can only assume approved the major expenditures at the  
17   Union Mine Landfill.

18               When we were speaking with staff, the  
19   question again came up, as we've been speaking most of  
20   today, as compliance with CEQA of which it appears from  
21   everything that's been said here today that your agency  
22   has the obligation and the duty to make sure that these  
23   projects are going forward and being in compliance with  
24   CEQA, not only the approval, but the conditions of  
25   approval, and it appears, from what I'm reading, not  
26   only from when I'm reading here and listening to and

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1 speaking with staff, that is an unclear situation as to  
2 how, when, or where that will be done, and I think that  
3 needs immediate clarification. If someone says, "Well  
4 they did a negative dec," or "they did an EIR," or  
5 "they did a mitigated," not only just the statement  
6 that they did it, but are they in compliance? Have  
7 they complied with the conditions of it? This  
8 particular location has not complied with their  
9 conditions of original approval, and yet even though I  
10 bring it to everyone's staff, they all say, "Well, it's  
11 really not clear as to who's supposed to enforce that,"  
12 even though part of your rules and regulations say that  
13 they have to be in compliance with CEQA.

14           After the letters you have, this is  
15 approximately 31 pages of a construction quality  
16 assurance plan of the partial final closure of 14.6  
17 acres of the northern area of this facility. This is  
18 time date stamped by the regional board of  
19 September 14th, which I got up at 4:30 this morning so  
20 I could go over there so I could be here bright and  
21 early for you guys, and to make sure that I knew what I  
22 was talking about. There's also a September 8th letter  
23 from Fish and Game for a bioassessment for the  
24 discharges from the Union Mine Landfill. I've been  
25 doing work at this landfill for almost five years now,  
26 and if I have not been as diligent as I am, I have no

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1 way of knowing what is going on at that landfill,  
2 because it appears that something is changing every  
3 day, and then I get my hands on a letter from whatever  
4 the source is that says we've been contemplating this,  
5 but they don't tell everyone. It's all inhouse between  
6 the LEA, between environmental management, between the  
7 operator of the landfill who's also the contractor at  
8 the landfill that's also doing the construction and  
9 excavation work at the landfill with no notice of  
10 preparation, no CEQA whatsoever, no plans, no project  
11 description, except this quality assurance plan, and  
12 this was just available to the public and to the  
13 agencies, and the job is three-quarters done.

14           This is why I'm asking for this change or  
15 this stipulation or to add into your rules so that we  
16 have the opportunity to see this, these type of  
17 actions, prior to them being done. These people that  
18 came in here from Humboldt County at least had a notice  
19 of preparation that they could look at. They had a  
20 project description they could look at. They had a  
21 hearing. This is, within the last five months,  
22 a-million-and-a-half dollars worth of work, all  
23 inhouse, no competitive bidding. No notice of public  
24 indication. No project description. All being signed  
25 off, I can only assume, because I've seen the document  
26 and the LEA has been unresponsive. That's why I been



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1 here to plead my case. I've tried to go through staff,  
2 and sometimes it's kind of hard to get through your  
3 legal staff, as many people have seen.

4 But, again, I'm doing the best that I can,  
5 so that the Board is aware of these problems, and if I  
6 have to go through the back door to make sure the Board  
7 is aware of these problems so that in the future should  
8 anything come up, that the Board can't say, "Steve, you  
9 should have come in and talked to us. Maybe we could  
10 have done something." So that's one of the reasons,  
11 and Item Number 12 is a fine vehicle for that, and I  
12 thank you for your time, and I please wish to be  
13 notified whenever -- I don't know what your decision is  
14 going to be, but if you're going to make revisions, I  
15 would like to partake in the workshop process and  
16 hereby request to be notified when those will take  
17 place and request your help and assistance in  
18 straightening out what is happening between the  
19 landfill and El Dorado County and the Placer County  
20 LEA.

21 Thank's you, gentlemen, and any questions,  
22 I'd be happy to answer.

23 CHAIRMAN PENNINGTON: Questions?

24 MEMBER JONES: I just have one.

25 CHAIRMAN PENNINGTON: Mr. Jones.

26 MR. PROE: Yes, sir.

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1                   MEMBER JONES: The issues that you bring  
2 forward to us on this -- and I'm glad you bring them  
3 forward -- did you bring those forward to the local  
4 elected officials.

5                   MR. PROE: Yes, sir.

6                   MEMBER JONES: The city council --

7                   MR. PROE: Absolutely.

8                   MEMBER JONES: -- the board of supervisors.

9                   MR. PROE: The board of supervisors.

10                  MEMBER JONES: Do they -- is there any --

11                  MR. PROE: You know of the three furry  
12 animals that that see together, well, we have at least  
13 three of them that do that, and I'm not being  
14 facetious. I'm being as straightforward as I can.

15                  MEMBER JONES: I just wanted to be clear.

16                  MR. PROE: Yes, sir. I document everything  
17 that I can. I put it in writing. I provide them with  
18 the facts and figures and the letters from the  
19 different agencies that say, "You can't do this until  
20 you come forward with the plan," and they ignore it.

21                  MEMBER JONES: Okay. Thanks, Mr. Chairman.

22                  CHAIRMAN PENNINGTON: Any other questions?

23                  Okay.

24                  MR. PROE: Thank you, gentlemen and staff.

25                  CHAIRMAN PENNINGTON: Thank you.

26                  How about a motion? Does anybody want to

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1 make a motion on this?

2 MEMBER JONES: Actually, I'll make a motion

3 to adopt Resolution 98-99 with these changes,

4 MR. HOLMES: The correct number is --

5 MEMBER JONES: I'm sorry.

6 MR. HOLMES: 285.

7 CHAIRMAN PENNINGTON: 98-285.

8 MR. HOLMES: 99 was the placeholder.

9 MEMBER JONES: Oh, 98?

10 MR. HOLMES: 285.

11 MEMBER JONES: 285. I hope I got the right

12 one.

13 MEMBER EATON: Do you have that?

14 MEMBER JONES: No.

15 MEMBER EATON: I don't either.

16 MEMBER JONES: It's -- okay, turn the other

17 one. It's 99 -- yeah, 285. Yeah, that's it.

18 MEMBER JONES: Oh, I don't have that one.

19 MEMBER EATON: I don't have that one either.

20 MEMBER JONES: Okay. On A -- I have your

21 only copy? Perfect.

22 MR. BLOCK: There was some in the back.

23 MEMBER JONES: On A I would like to include

24 at the end of that, "Revise regulations to provide

25 uptiering when operator and enforcement agency agree

26 and to establish an appeal process when they don't."

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1                   THE SECRETARY: Could you repeat that  
2 please? I'm sorry.

3                   MEMBER JONES: "And to establish an appeal  
4 process when they disagree. The appeal to be held here  
5 or wherever." Under Title 27 where you're asking on  
6 RFI amendments, I think "I" that if an amendment -- if  
7 it can't be made through an amendment, then I think you  
8 need to go for a new permit. It's going to be part of  
9 the RSU issue anyway.

10                  MEMBER EATON: Then delete double I?

11                  MEMBER JONES: Yeah. Then double I as our  
12 other option.

13                  C. I don't have any problem with C, leaving  
14 that in there. For standardized permits either revise  
15 regulations or delegate the authority. I would like  
16 us -- that's where I'd like to add that we work on the  
17 procedure to determine when we accept something as  
18 complete. Is that reasonable?

19                  MR. BLOCK: That would be in the form of,  
20 essentially, like an LEA determines an application to  
21 be complete and correct. That would be a similar  
22 determination of Board staff and that would start the  
23 clock when that completeness and correctiveness  
24 determination is made.

25                  MEMBER JONES: Well, that's what I want to  
26 discuss is when does our clock start? When do we



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1 determine that it is, in fact, a complete permit so  
2 that we don't get jammed with a week left and have to  
3 scramble after the city council --

4 CHAIRMAN PENNINGTON: Well, maybe that's  
5 what we say. The 30- or 60-day clock starts when the  
6 CIWMB staff determines that it's complete.

7 MS. TOBIAS: Could you make that a  
8 suggestion so that we can look at it? I need to  
9 look -- we need to look at it and basically see if we  
10 can do that. So I think the suggestion is fine. I  
11 just want to see if we have the authority to do that.

12 MEMBER FRAZEE: The issue is being raised by  
13 a member of my staff. He thinks that would require a  
14 statutory change to allow that.

15 MS. TOBIAS: I think that's a possibility,  
16 but let's make it the suggestion. I have no problem  
17 with making it the suggestion. Let's look at it and  
18 see if there's a way to do it.

19 MEMBER JONES: I think when we had the  
20 discussions, it was brought up that it may take a  
21 statutory change, but we never defined when we consider  
22 it to be complete.

23 MS. TOBIAS: Well, the worst that comes out  
24 of it is we come back and say, "Would you like to do a  
25 statutory change on this?"

26 MEMBER JONES: Right, or we define

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1 "complete."

2 And that's the motion.

3 THE SECRETARY: What was the final on D?

4 CHAIRMAN PENNINGTON: It should say, CIWMB

5 staff deems the application to --

6 MEMBER JONES: Mr. Chairman, how about on

7 this one here, we strike them both and then try the --

8 and try working on the thing. We just won't deal

9 with --

10 CHAIRMAN PENNINGTON: Okay.

11 MEMBER JONES: So, we'll strike D. We'll

12 strike D and add that we need to work on the clock.

13 And if you got that, Marlene, you're doing

14 good, 'cause I'm not sure I even remember what I said.

15 THE SECRETARY: I got you on tape.

16 MEMBER JONES: Well, that was my motion

17 Mr. Chairman, as convulted and as --

18 CHAIRMAN PENNINGTON: I'll second your

19 motion.

20 If there's no further discussion, will the

21 secretary all the roll.

22 THE SECRETARY: Board Member Eaton.

23 MEMBER EATON: Aye.

24 THE SECRETARY: Frazee.

25 MEMBER FRAZEE: Aye.

26 THE SECRETARY: Jones.

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1                   MEMBER JONES:   Aye.

2                   THE SECRETARY:   Chairman Pennington.

3                   CHAIRMAN PENNINGTON:   Aye.   Motion carries.

4                   I'd like to move to Item 15.   We have some  
5   folks here that are from Illinois and they're obviously  
6   going either to take the red eye back or spend the  
7   night.   We'd like to get them out so at least they can  
8   get some dinner or get to the airport.

9                   MEMBER JONES:   They have a lot greater  
10   appreciation for Illinois right now.

11                  CHAIRMAN PENNINGTON:   All right.   Update on  
12   the Rigid Plastic Packaging Container Certification  
13   Process for 1996.   Oral presentation.   Caren Trgovich.

14                  AGENDA ITEM NUMBER 15

15                  MS. TRGOVICH:   Good afternoon,  
16   Chairman Pennington and members.   This will be an oral  
17   update where we will be providing you with information  
18   on the status of the RPPC certification process.  
19   John Nuffer who's the program manager will provide you  
20   with that.

21                  Additionally, there's some individuals, as  
22   you mentioned, that would like to, I believe, address  
23   the Board on matters pertaining to the certification  
24   process.

25                  MR. NUFFER:   Thank you, Caren, Board  
26   members.   I'm John Nuffer with the Waste Prevention and

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1 Market Development Division.

2           As you recall we randomly selected 500  
3 manufactures throughout the country. We mailed  
4 certification forms to them. By statute they had 60  
5 days within which to respond. We mailed those forms on  
6 the July 6th, so the time is up for most of the  
7 companies that we contacted. Price-Waterhouse staff  
8 and staff here have heard from about 250 companies.  
9 132 of those said that they aren't required to submit  
10 the forms. In other words, 132 said they didn't use  
11 RPPC's in 1996. We will be following up with those  
12 companies to make sure that information is correct. 50  
13 companies requested extensions, meaning they're filling  
14 out the forms, gathering information and will be  
15 submitting the forms within 30 days. We're processing  
16 those extensions presently. There are 48 companies  
17 that requested exemptions from the requirements, and  
18 there are several allowances in statute, and we're  
19 processing those exemptions currently. 22 have  
20 supplied information and the forms as required, and  
21 Price-Waterhouse will be entering the data into their  
22 database shortly. The balance of about 250 have not  
23 submitted anything and we have not heard from. We  
24 intend to call those companies and find out what the  
25 situation is.

26           Of the 22 that submitted data, those



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1 companies had products -- had a number of products  
2 ranging anywhere from 1 product to 150 products that  
3 they had to certify. Five of the companies reported  
4 that they were probably not in compliance.

5 That's the brief update. If you have any  
6 questions, we'd be happy to answer them.

7 CHAIRMAN PENNINGTON: Questions?

8 MEMBER EATON: For the numbers, we got 250  
9 that did not submit; correct?

10 MR. NUFFER: Yes.

11 MEMBER EATON: Another 22 who had submitted.  
12 Five who submitted but said they were probably not in  
13 compliance -- I think is the term you used.

14 MR. NUFFER: Yes.

15 MEMBER EATON: And then 132 said that they  
16 did not use RPPC's during the time frame by which we  
17 are seeking the information?

18 MR. NUFFER: Yes.

19 MEMBER EATON: And 48 sought exemptions?

20 MR. NUFFER: Right.

21 MEMBER EATON: And what was the other  
22 figure?

23 MR. NUFFER: 50 requested extensions. So  
24 there should be at least 72 companies that are  
25 supplying information.

26 MEMBER EATON: Do any of the 132 that said

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1 they didn't use them sort of stick out?

2 MR. NUFFER: We haven't had a chance to go  
3 to Price-Waterhouse and get look at that information.  
4 We'll be doing that.

5 CHAIRMAN PENNINGTON: Okay? Okay.

6 Frederick -- is it Kulevich?

7 MR. KULEVICH: Yes. Thank you. Good  
8 afternoon -- or good evening as I suppose is in order.  
9 My name is Frederick J. Kulevich. I'm senior counsel  
10 for Sears Roebuck & Company. At Sears I'm responsible  
11 for a wide range of environmental legal issues,  
12 including those relating to regulatory compliance. I'm  
13 here today, however, to provide information to the  
14 Board regarding the difficulty retailers like Sears  
15 have in responding to the certification request for the  
16 Ridged Plastic Packaging and Container Program.

17 We very much appreciate the opportunity to  
18 make this presentation to the Board and the courtesy  
19 the staff has extended to us in earlier meetings today.

20 CHAIRMAN PENNINGTON: I'm sorry you had to  
21 wait so long.

22 MR. KULEVICH: That's understandable.

23 Sears is a nationwide retailer, as many of  
24 you may know, selling a broad range of apparel,  
25 automotive, and other household products and services  
26 through our department stores or automotive centers,

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1 our product service centers and hardware stores.  
2 Although we sell a large number of private label  
3 brands, we don't actually manufacture any products.  
4 Instead we purchase these products from a large number  
5 of manufacturers who in turn purchase the containers  
6 from an equally large numbers of container suppliers.

7               Sears has had a long history of corporate  
8 commitment to recycling programs, and on a voluntary  
9 basis, for example, Sears has implemented a recycling  
10 program that during the first eight months of 1998 it  
11 resulted in a recycling of 6.5 million pounds of  
12 cardboard, 5.6 million hangers, half a million auto  
13 batteries, and 490,000 pounds of scrap tools, and  
14 that's in California alone.

15               Because the act refers to manufacturers and  
16 distributors, we don't believe the act actually applies  
17 to a retailer such as Sears, but setting that aside, we  
18 thought it might be helpful to give the Board a flavor  
19 of the difficulties a retailer like Sears is facing in  
20 trying to respond to the certification request.  
21 Because Sears purchases prepackaged products, it does  
22 not capture packaging information for its products as  
23 part of its day-to-day record keeping. While a  
24 manufacturer may need to capture such information in  
25 order to manufacture or appropriate quantities of  
26 packages, a retailer like Sears has really no

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1 independent business reason to keep such information.  
2 Since Sears does not have records specifying the  
3 packaging type for thousands and thousands of products  
4 it sold in its stores in 1996, Sears has had to rely on  
5 its current product assortment to try to get an  
6 understanding of the scope of the issue that we're  
7 facing. Therefore, in August, Sears commissioned an  
8 inventory that was to be conducted by an outside  
9 inventory firm we use to do our quarterly inventories  
10 and supervised by a national environmental consultant,  
11 Fluor Daniel GTI to make sure that we were identifying  
12 the correct products. They were charged to go to four  
13 representative retail formats for Sears, which are the  
14 Sears full line department store, the Sears automotive  
15 center, a Sears product service center, and a hardware  
16 store. These stores were all located in Torrence,  
17 California, and they were considered representative  
18 because they represent the four formats we have that  
19 are most likely to sell products in RPPC.

20 As a result of the inventory review, we  
21 identified over 1,000 products which may be packaged in  
22 RPPC. From that over 1,000 products we began a process  
23 of identifying individual products and trying to  
24 evaluate if they actually fell within the precise  
25 definition, and we've made some calls and excluded a  
26 number of the products from that list, and we're still



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1 in the process of defining the list, but currently  
2 we're at 370 products that we believe may be packaged  
3 in RPPC.

4 Sears currently purchased these products  
5 from approximately 80 to 90 separate manufacturers with  
6 an untold number of container manufacturers. In order  
7 to submit the certifications requested by the Board,  
8 Sears would first need to identify this list for the  
9 products it sold in 1996, and then obtain information  
10 regarding recycling rates or source reduction from each  
11 of the manufacturers who in turn may have to go back to  
12 the container manufacturers to get the actual data.  
13 The time and resources to attempt to attain the  
14 information are substantial, as you can imagine, and  
15 the information just may not be available. In fact, we  
16 believe the cost of identifying and tracking packaging  
17 on the ongoing basis and obtaining this information  
18 would probably far exceed the maximum penalties under  
19 the act.

20 Clearly within the time allotted for  
21 responding to certification, it's not possible for  
22 Sears to provide the requested information. Even with  
23 the additional 30-day extension, which we have  
24 received, it's not possible to identify all the  
25 products that may have been in RPPC during 1996, much  
26 less send and receive the responses to our request for

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1 information to the manufacturers, who in turn would  
2 talk to container manufacturers. However, because  
3 Sears is committed to recycling efforts and in  
4 assisting the Board in its goal in meeting certain  
5 recycling targets, we met with the staff earlier this  
6 afternoon to discuss a protocol for providing  
7 certification data for a number of representative  
8 products currently sold in Sears stores. We believe  
9 the undertaking of this protocol would assist the staff  
10 in evaluating the difficulties retailers such as Sears  
11 face in putting together this information. We  
12 understand the staff cannot act on its own initiative  
13 to accept this protocol and, therefore, we request the  
14 issue of this protocol be added to the October 6th,  
15 1998, meeting of the Board.

16 Sears is committed to working with the Board  
17 and the staff to develop a protocol and provide  
18 information on its representative sample of products to  
19 allow the staff and the Board to evaluate the  
20 difficulty that retailers face in complying with these  
21 provisions, and we engage in this process with the hope  
22 that the Board will consider amendments to the  
23 regulation that will address concerns faced by  
24 retailers.

25 I very much appreciate the opportunity to  
26 speak before you, and I'd be happy to answer any

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1 questions you may have at this time.

2 CHAIRMAN PENNINGTON: Any questions?

3 Mr. Eaton.

4 MEMBER EATON: I have a couple of questions.

5 With regard to some of your products,  
6 without trying to get into any proprietary information,  
7 do you sell a number of these products under, you know,  
8 sort of like Craftsman oil or any of the Sears name as  
9 opposed to even though you may use another national  
10 vendor who may sell under it's own name, but because of  
11 your purchasing and how you do business you may just  
12 buy in bulk and just say, you know, I need 10 million,  
13 you know, quarts of blank, some product? Is that how  
14 you normally work, but it's sold under the Sears name?

15 MR. KULEVICH: That's correct for some  
16 products.

17 MEMBER EATON: For some products.

18 MS. TRGOVICH: Member Eaton, perhaps it  
19 would help, I believe Mr. Kulevich made a statement  
20 earlier in terms of how they don't believe that they  
21 are covered under the law. I think your question gets  
22 to an issue around the regulations, around the statute  
23 itself, and maybe, Debbie, if you could just briefly  
24 describe why they are covered and for what types of  
25 products they are covered.

26 MEMBER EATON: I'm seeking to see if he

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1     wants to rat on the manufacturers. That's where I'm  
2     going.

3                   MS. TRGOVICH: I think basically for the  
4     other members, though, who expressed and appeared to be  
5     concerned about that, it's the way the term "product  
6     manufacturer" is defined, and the fact that these  
7     products that Mr. Kulevich is referring to are products  
8     that Sears' name is on. There is not another product  
9     manufacturer's name on them. They contract, purchase  
10    those products, put them in their stores with the  
11    Craftsman name or with other Sears' names on them, so  
12    they are identified, therefore, as the product  
13    manufacturer.

14                  DEBBIE: Well, just to reiterate what Caren  
15    said, the regulation, basically I don't think there was  
16    any other way in the regulation they could identify who  
17    the manufacturer was if there wasn't a name on the  
18    product. So I think that's how the regulation got  
19    developed the way that it was.

20                  So the hierarchy is, if it's the person who  
21    actually manufactured the products, the name is on the  
22    product, that's who we would go after, but if we don't  
23    have that then we would need -- we go by whose name is  
24    on the product.

25                  MEMBER JONES: Mr. Chairman?

26                  CHAIRMAN PENNINGTON: Yes.



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1                   MEMBER JONES: I want to ask Caren a  
2 question.

3                   This protocol that you're looking at for  
4 items in 1998, you know, I mean, we're listening to  
5 this item, and I have to go back to Member Frazee's  
6 very sage assessment of this particular program, but  
7 was part of the protocol a commitment to spec material  
8 with postconsumer content in it?

9                   MS. TRGOVICH: I think that's a question  
10 you'll have to pose to the Sears representative.

11                  MEMBER JONES: Damn, I was hoping that they  
12 would have offered it up. It would make the  
13 bookkeeping easier.

14                  CHAIRMAN PENNINGTON: Okay. Mr. Eaton?

15                  MEMBER EATON: Yeah. So, I just want to  
16 kind of -- I don't have a problem, first, in setting an  
17 agenda item for October 6th. I'm trying to work  
18 through some of the issues, because I think it is part  
19 of the frustration of everyone is how do you get at  
20 really who the culprit is, and what do you call it,  
21 vicarious liability, or what have you, you're there,  
22 but it would be helpful if we could kind of get some  
23 sense of the types of products that might be included  
24 with a national retailer and obviously -- what, do you  
25 provide specs to them in any respect in the sense of  
26 any kind of packaging requirements, or -- I mean,

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1 obviously you've got disclaimers and you've got  
2 warnings and all kinds of things that you have to  
3 contend with.

4 MR. KULEVICH: Actually, very few specific  
5 specifications for product packaging. We actually rely  
6 very heavily, as our manufacturers, to provide  
7 packaging that complies with all requirements. A lot  
8 of the products we're talking about are small or high  
9 volume products that aren't the big ticket that would  
10 require specification.

11 MEMBER EATON: Like, for example?

12 MR. KULEVICH: Drill bits. I've actually  
13 got a sample or two here if you're interested in seeing  
14 the packaging, but containers of putty which would fall  
15 within -- that's kind of a standard container that we  
16 would inspect.

17 MEMBER EATON: So if I'm clear, what you're  
18 asking is that if on October 6th we can try and see  
19 what kind of either clarification or process by which  
20 you would be able to do, and I'll let you fill in the  
21 blank.

22 MR. KULEVICH: These are just -- while  
23 answering your question -- these are some examples of  
24 some of the packages -- clam shell packages that we've  
25 discovered. Some of them are below the size  
26 specifications, but they give you a good idea of what

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1 we're talking about.

2                   To answer your question specifically, what  
3 we intend to do is have further discussions with the  
4 staff to develop a protocol to provide information  
5 that's going to be, I think, helpful to the Board and  
6 the staff in evaluating the regulations and the  
7 information you're looking for regarding recycling.  
8 Our major problem, frankly, is the '96 data. It's just  
9 not available within Sears, and it isn't readily  
10 available by the -- it isn't available, period, by the  
11 October 6th date. So we want -- rather than just send  
12 a certification without the information, we want to  
13 cooperate, obviously, with the Board and the staff to  
14 give you something that may be useful.

15                   MS. TRGOVICH: Member Eaton, if I could just  
16 point out, I want to make sure there's no lack of  
17 clarity here.

18                   October 6th, I believe, is Sears' deadline  
19 on their 30-day extension, so I believe that what  
20 they're requesting here is that they be given an  
21 opportunity to come forward, have you consider an  
22 alternative protocol with respect to the number of  
23 products that they would have to submit certifications  
24 for, and that will take them past their October 6th  
25 deadline, and I want to make sure that everyone's clear  
26 on that.

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1                   MEMBER FRAZEE: Just as a, sort of a point  
2 of order, I don't think any of these packages qualify.

3                   MS. TRGOVICH: The largest one may, and it  
4 would be an issue likely around the weight because --

5                   MEMBER FRAZEE: They're capable of being  
6 closed.

7                   MS. TRGOVICH: Capable of multiple  
8 reclosure, correct. Not intended for multiple  
9 reclosure, but capable.

10                  CHAIRMAN PENNINGTON: Mr. Jones.

11                  MEMBER JONES: We're down this road  
12 obviously because in the state of California in a -- in  
13 an effort to promote recycling of plastic, there were  
14 four criteria put in place, one of them being that it  
15 is proven that so much of this material be collected  
16 and recovered, and that didn't happen this year. It  
17 almost didn't happen the year before, but it met a  
18 range, and that fact that we didn't recover those  
19 items -- or that the number didn't work out right for  
20 the recovery, now all these other things trigger that  
21 make if Sears of the world and everybody else have to  
22 deal with this issue in California. I'm wondering at  
23 what point does it become such a burden on Sears and  
24 such a pain that maybe the people that make that  
25 packaging, or that represent those packagers, that you  
26 don't tell them, "Figure out a way to get this thing up



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1 to 25 percent," because we don't want to go through  
2 this thing? And maybe we need to look at what was the  
3 intent behind this law, and I don't even presume to  
4 know what the intent was, but it would seem to me that  
5 this is a good opportunity for companies like Sears to  
6 let the manufacturers of plastic packaging know that,  
7 you know, there is an easy threshold to meet in  
8 California that doesn't put the burden on me, and since  
9 I'm the 800-pound gorilla that's buying the stuff, make  
10 it happen. I mean, I would offer it as a suggestion  
11 because it would not only help, I hope, yourselves, but  
12 you'd help the state of California, and you'd help  
13 those legislatures that tried to come up with a method  
14 to make sure that we recovered that material, and  
15 Mr. Frazee has often said, you know, to try to quantify  
16 where these folks are using that material is going to  
17 put such a burden on that -- and if we enforce it, then  
18 that's usually the best way to get rid of a law that's  
19 hard to deal with. All we have to do is enforce it.

20           So before we get to that point with throwing  
21 that thing out, I would prefer that, you know, the  
22 message goes back, and the message goes to RPA, and the  
23 message goes to those people that provide you  
24 packaging, and we're aware that packaging is critical  
25 for a lot of different reasons, but let them know the  
26 dynamic of the pain that this has caused and that the

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1 effort has to be made, you know. New products need to  
2 be built with recovered plastic, and then this issue  
3 goes away, and I don't want that loss.

4 MR. KULEVICH: I think what we're  
5 actually -- that's one of the things we are willing to  
6 discuss with regard to how can we best achieve the  
7 actual goals that you're trying to get at, rather than  
8 the certification, which is the initial problem for us,  
9 the short-term problem. The longer-term problems we're  
10 willing to entertain. Things Sears can do to advance  
11 that goal.

12 MEMBER JONES: Right.

13 CHAIRMAN PENNINGTON: Any further questions?

14 Thank you.

15 MR. KULEVICH: Thank you.

16 CHAIRMAN PENNINGTON: Randy Pollack.

17 MR. POLLACK: Thank you, Mr. Chairman,  
18 members of the Board. Randy Pollack on behalf of the  
19 Soap and Detergent Association. I just want to just  
20 make a couple brief remarks.

21 One, Mr. Jones, we are working very hard in  
22 the manufacturer area to reduce our plastic and to use  
23 recycled product, and we've been very successful over  
24 the years. We know that we have some ways to go and we  
25 are working every day on those. Clorox, for example,  
26 has been very successful in those efforts, along with

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1 other companies, such as Procter & Gamble. So we are  
2 working towards those efforts, and we look forward to  
3 working with retailers like Sears to improve that.

4 Additionally, the one comment that I also  
5 wanted to make is that if there's a protocol  
6 established by the staff, we'd just like for that to be  
7 shared with some of the interested parties.

8 MEMBER JONES: Sounds reasonable.

9 MR. POLLACK: Thank you very much.

10 CHAIRMAN PENNINGTON: Any questions of  
11 Randy?

12 MEMBER JONES: No. Just so we do know that  
13 Clorox and those folks are working hard, believe me.  
14 We know that. You let us know us every time you see  
15 us.

16 CHAIRMAN PENNINGTON: Okay.

17 MEMBER EATON: It's those other 150 we're  
18 looking for.

19 CHAIRMAN PENNINGTON: We have two items, 13,  
20 which is, Consideration of approval of the report to  
21 the legislature entitled, "Feasibility Study on the  
22 Expanded Use of Forest and Agricultural Waste in the  
23 Production of Commercial Products."

24 We're going to break.

25 (Break taken.)

26 CHAIRMAN PENNINGTON: Okay. Let's move to  
256

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1 item 14, which is, I'm told, very quick. Consideration  
2 of the proposed 1998 Waste Reduction Awards Program,  
3 WRAP-of-the-year winners. So wrap it up.

4 AGENDA ITEM NUMBER 14

5 MR. HUNTS: Good evening, Mr. Chairman,  
6 Board members. Thank you for allowing me to take care  
7 of this today.

8 CHAIRMAN PENNINGTON: Would you state your  
9 name for the record.

10 MR. HUNTS: Jeff Hunts with the waste  
11 prevention and market development division.

12 The item before you is consideration of  
13 the proposed WRAP-of-the-year winners. The WRAP  
14 program, as it has in the past two years, has evaluated  
15 the regular WRAP winners. This year there were nearly  
16 400 to select the best of the best. A candidate pool  
17 was formed. A blue ribbon evaluation panel evaluated  
18 the candidate list. They selected ten proposed  
19 winners, whose businesses are listed on your  
20 Attachment 1. In the interest of time, I won't read  
21 them right now.

22 The staff recommend the adoption of  
23 Resolution 98-288 and designating the list of proposed  
24 winners as the 1998 WRAP-of-the-year winners.

25 I'd be happy to answer any questions about  
26 the process or the businesses or anything else about



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1 the program.

2 CHAIRMAN PENNINGTON: Any questions?

3 If not, as the one who signed all 490 of

4 them, or whatever it was, I'll move adoption of

5 Resolution 98-288.

6 MEMBER FRAZEE: I will second.

7 CHAIRMAN PENNINGTON: If there's no further

8 discussion, will the --

9 MEMBER JONES: Just one question,

10 Mr. Chairman. I don't have any problem with moving

11 these ones through, but I'd like to see an item next

12 time that determines how we're going to give these

13 awards out, because I think these are pretty arbitrary,

14 and, you know, I'd just like to see the process, unless

15 we decide it not to fund it because the union doesn't

16 want us to. At that point, it's a moot point.

17 MR. HUNTS: I can assure you that the money

18 is spent on more than just printing and mailing.

19 CHAIRMAN PENNINGTON: Okay. If there is no

20 further discussion, will the secretary call the roll.

21 THE SECRETARY: Board Member Eaton.

22 MEMBER EATON: Is that part of the

23 resolution that we would have a discussion?

24 MEMBER JONES: No. I'm just asking that we

25 have a discussion on the criteria.

26 MEMBER EATON: Aye.

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1 THE SECRETARY: Frazee.  
2 MEMBER FRAZEE: Aye.  
3 THE SECRETARY: Jones.  
4 MEMBER JONES: Aye.  
5 THE SECRETARY: Chairman Pennington.  
6 CHAIRMAN PENNINGTON: Aye. Thank you. The  
7 motion carries. Thank you.  
8 Now, we'll move to the Resolution 98-316,  
9 Consideration of adoption of an addendum to the  
10 mitigated negative declaration prepared by the City of  
11 Arcata Community Development Department for the  
12 Humboldt County Waste Management Authority Transfer  
13 Station, Humboldt County.  
14 MS. TOBIAS: Mr. Chairman?  
15 CHAIRMAN PENNINGTON: Ms. Tobias.  
16 MS. TOBIAS: For your reading pleasure, at  
17 the third page on the bottom, I have the language that  
18 I've revised down there at the bottom underneath  
19 Ralph's signature. However, what I've done is I've  
20 actually revised the whole resolution. I've taken out  
21 the so-called offending paragraphs and then put that  
22 language in the paragraph that is at the bottom of  
23 page 2. So if you look the at the second page, you'll  
24 see in the middle of the page, "The addendum provides  
25 clarifying information." Then it goes right into the  
26 fact that the Authority has jurisdiction and has agreed

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1 to hold a hearing.

2                   And then the last paragraph on page 2 is the  
3 one that wraps up a lot of our reasons for doing what  
4 we're doing, and you'll see in the of middle of that  
5 paragraph, starting on the third line, it says that,  
6 "Business capacity and competitiveness reasons would  
7 cause closure of a self-haul facility in the city of  
8 Eureka, and thus the potential closure is not a  
9 reasonably foreseeable consequence or automatic result  
10 of the project, and, therefore, that potential closure  
11 is not a part of the proposed project and need not be  
12 addressed by the responsible agency." So what I did  
13 was, in the effort to address your concerns, is I  
14 basically, instead of starting the sentence or the  
15 clause, as it was, with reasonable and foreseeable, I  
16 put the issue that I really want to get in up front,  
17 which is that there are other reasons that would cause  
18 closure of a self-haul facility as opposed to this  
19 particular transfer station. So I think I removed the  
20 word "revengeful," hard as that was for me, and  
21 actually I think this reads well. So I would commend  
22 it to your recommendation.

23                   MEMBER JONES: Mr. Chairman?

24                   CHAIRMAN PENNINGTON: Discussion?

25                   Mr. Jones.

26                   MEMBER JONES: Yes. Question.

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1 Under the whereas where we've identified the  
2 five items.

3 MS. TOBIAS: Yes.

4 MEMBER JONES: That "this CEQA analysis does  
5 not cover activity at any other location." One the  
6 issues that I brought up when we were talking about  
7 this was that if they don't find another location,  
8 they, in fact, can turn this into a permanent facility.  
9 Does that sentence in resolution let them expand that  
10 project without going through? Because if it does --

11 MS. TOBIAS: That's a good point because --  
12 I need a copy of the addendum. I got it.

13 If you notice in the addendum, and if you  
14 turn to page 4, and there's Number 4 says, "Limitation  
15 on the use of this mitigated negative declarations for  
16 other projects. The use of this mitigated neg-dec is  
17 limited to the temporary waste transfer station does  
18 not address any other site, project configuration or  
19 transfer of wastes and, therefore, may not be used for  
20 any other potential locations for a temporary or  
21 permanent waste transfer system. Further on it may not  
22 be used as an environmental document for a permanent  
23 transfer station." So I think that covers if they say  
24 this is to become permanent, and I don't know what that  
25 bracket's doing there, but that bracket should be out  
26 "or for transport of wastes from the permit transfer



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1 station into the landfill by rail or truck" -- omit  
2 that other bracket -- "when permitting for that  
3 facility begins."

4               So I don't have a problem if you want to add  
5 something else to this. It says "does not cover  
6 activity at any other location or any expansion at this  
7 site," but I would say that legally speaking, this  
8 addendum, you know, and the resolution will be read  
9 together, but as I say, if you want to add that, I  
10 don't have a problem, and I don't think anybody else  
11 would, adding, you know, "or any expansion at this  
12 site." do you want to do that?

13               MEMBER JONES: I'd prefer it if the other  
14 Board members do.

15               CHAIRMAN PENNINGTON: That's fine with me.

16               MS. TOBIAS: So it will read, "at any other  
17 location or any expansion at this site," and I think  
18 expansion would be enough because of what's already in  
19 the addendum. So I don't think I have to, you know,  
20 include "expansion of rail haul, expansion of tonnage,  
21 expansion of additional trucks," because I think that's  
22 covered, and I intend it to be covered.

23               MEMBER JONES: Yeah, because there is no  
24 such thing as a temporary permit.

25               MS. TOBIAS: Nope. I should say no.

26               MEMBER JONES: Nope works.

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1 MS. TOBIAS: Any other suggestions?

2 I appreciate the clarifications on this, and

3 I think it reads well to reflect the judgment of the

4 Board today.

5 CHAIRMAN PENNINGTON: Okay.

6 MS. TOBIAS: I'd like you to just approve

7 it. You've already approved the --

8 CHAIRMAN PENNINGTON: Any further

9 discussion.

10 MEMBER FRAZEE: I would move that we concur

11 in the modified language on Resolution 98-316 as

12 presented by counsel.

13 MEMBER JONES: With my --

14 MEMBER FRAZEE: Yes.

15 MEMBER JONES: All right. I'll second it.

16 CHAIRMAN PENNINGTON: All right. It's been

17 moved and seconded. If there's no further discussion,

18 will the secretary call the roll.

19 THE SECRETARY: Board Member Eaton.

20 MEMBER EATON: Aye.

21 THE SECRETARY: Frazee.

22 MEMBER FRAZEE: Aye.

23 THE SECRETARY: Jones.

24 MEMBER JONES: Aye.

25 THE SECRETARY: Chairman Pennington.

26 CHAIRMAN PENNINGTON: Aye. Motion carries.

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1 MS. TOBIAS: Thank you.

2 CHAIRMAN PENNINGTON: We will recess now  
3 until 9:30 tomorrow morning when we will take up CB 6,  
4 the contract concepts, Item 6, the Green Building Tech  
5 Center, Item 9, the State legislation, and Item 13,  
6 Forest and Ag report to the legislature.

7 If there being no further business before us  
8 we'll recess till 9:30.

9 (Whereupon the proceedings concluded at  
10 5:42 P.M.)

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1                               REPORTER'S CERTIFICATE

2   STATE OF CALIFORNIA    )  
3                               )       ss.  
4   COUNTY OF SOLANO       )

5                       I, JANENE R. BIGGS, a Certified Shorthand  
6   Reporter, licensed by the state of California and  
7   empowered to administer oaths and affirmations pursuant  
8   to Section 2093 (b) of the Code of Civil Procedure, do  
9   hereby certify:

10                      That the proceedings were recorded  
11   stenographically by me and were thereafter transcribed  
12   under my direction via computer-assisted transcription;

13                      That the foregoing transcript is a true  
14   record of the proceedings which then and there took  
15   place;

16                      That I am a disinterested person to said  
17   action.

18                      IN WITNESS WHEREOF, I have subscribed my  
19   name on October 14, 1998.

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21                      Janene R. Biggs

22                      Certified Shorthand Reporter No. 11307

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